

1 IN THE COUNTY OF WASHINGTON

2
3 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

4 VIRGINIA GAS AND OIL BOARD

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8 SEPTEMBER 22, 2004

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11 APPEARANCES:

12 MASON BRENT - OIL & GAS REPRESENTATIVE

DENNIS GARBIS - PUBLIC MEMBER

13 BILL HARRIS - PUBLIC MEMBER

BENNY WAMPLER - DEPUTY DIRECTOR OF THE DMME AND CHAIRMAN

14 PEGGY BARBAR - PUBLIC MEMBER

JIM McINTRYE - CITIZEN APPOINTEE

15
16
17 BOB WILSON - DIRECTOR OF THE DIVISION OF GAS & OIL AND
PRINCIPAL EXECUTIVE TO THE STAFF OF THE BOARD

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2 **Approve minutes from last hearing 182
3 ***Attached copy of the docket
4 BENNY WAMPLER: My name is Benny Wampler. I'm
5 Deputy Director for the Virginia Department of Mines,
6 Minerals and Energy, and Chairman of the Gas and Oil Board.
7 I'll ask the members to introduce themselves, starting with
8 Mr. Brent.
9 MASON BRENT: My name is Mason Brent. I'm from
10 Richmond and I represent the Gas and Oil Industry.
11 DENNIS GARBIS: My name is Dennis Garbis. I'm a
12 public member from Fairfax County.
13 BILL HARRIS: My name is Bill Harris. I'm a public
14 member from Wise County.
15 PEGGY BARBAR: My name is Peggy Barbar. I'm a
16 public member from Richlands, Virginia.
17 JIM MCINTRYE: Jim McIntrye, Wise, Virginia. I'm a
18 citizen appointee.
19 BOB WILSON: I'm Bob Wilson. I'm the Director of
20 the Division of Gas and Oil, and Principal Executive to the
21 staff of the Board.
22 BENNY WAMPLER: The first items on the agenda today
23 were originally continued until the October hearing, but due
24

1 to a letter that we...a discussion I had with the Attorney
2 General's Office and a subsequent letter, we rescheduled
3 these items for today. We'd ask the parties that wish to
4 address the Board in the following items to come forward at
5 this time. These are docket numbers VGOB-93-0622-0381, 93-
6 0420-0363, 93-0420-0355, 95-0818-0511, 95-0718-0509, 96-1016-
7 0556, 92-0721-0243, 95-0718-0508, 95-0815-0510, 92-1215-0305.
8 We'd ask the parties to...I'm sorry, another is 95-1024-
9 0526. The parties that wish to address the Board in this
10 matter to come forward at this time.

11 MARK SWARTZ: I kind of got a housekeeping matter--

12 BENNY WAMPLER: Sure.

13 MARK SWARTZ: ---on the first item, U-16.

14 BENNY WAMPLER: The Board has received copies of
15 letters from John Byron, Jr., Assistant Attorney General.
16 Bob, did you give Mr. Swartz a copy of that letter, please?

17 BOB WILSON: No, I didn't.

18 BENNY WAMPLER: I'll give you time to read that.

19 (Bob Wilson passes out a document and Mark Swartz
20 reviews the letter.)

21 BENNY WAMPLER: State your name for the record,
22 please.

23 MARK SWARTZ: Mark Swartz and Anita Tester.

24

--

1 COURT REPORTER: Is anybody going to testify?

2 MARK SWARTZ: She is.

3 (Anita Tester is duly sworn.)

4 BENNY WAMPLER: The record will show there are no
5 others. You may proceed.

6 MARK SWARTZ: We had asked previously to do some
7 additional disbursements out of the U-16 unit and that had
8 been continued for the paperwork to catch up and so forth.

9 BENNY WAMPLER: That's right.

10 MARK SWARTZ: And Anita has...has done that work.
11 The additional things that we're talking about are the first
12 five lines that are highlighted in blue. The rest of the
13 stuff is testimony that you've already heard.

14 BENNY WAMPLER: Okay.

15

16 ANITA TESTER

17 having been duly sworn, was examined and testified as
18 follows:

19 DIRECT EXAMINATION

20 QUESTIONS BY MARK SWARTZ:

21 Q. Anita, could you tell us what...what we're
22 proposing here and what you've done?

23 A. The people that are shown in blue, I

24

--

1 realized that there were royalty splits for those people that
2 we had left off previously. So all I'm doing is just kind of
3 adding them...adding them on there. So, how do you want me--
4 -?

5 Q. And did each of these people have a royalty
6 split agreement that's in writing?

7 A. Yes.

8 Q. And is there an agreement that they divide
9 the claim equally?

10 A. Yes.

11 Q. Okay. And then you've provided here the
12 tract that the agreements apply to?

13 A. Yes.

14 Q. What tract is that?

15 A. Tract 4.

16 Q. And the...and the percentage of escrow, is
17 the percentage attributable to their split agreement in Tract
18 4, is that correct?

19 A. Yes.

20 Q. And then the numbers that you've reported
21 here, you've got a total amount to split coming out of the
22 tract for each party, correct?

23 A. Yes.

24

--

1 Q. And then you've got their individual
2 portion?
3 A. Yes.
4 BENNY WAMPLER: Questions from members of the
5 Board?
6 BILL HARRIS: I do have just---.
7 BENNY WAMPLER: Mr. Harris.
8 BILL HARRIS: ---a quick question about the
9 fractions after some of the names. 1/90th, 1/20th. What---?
10 ANITA TESTER: That was just for me to be able
11 to...that's the interest they own. It's a huge heirship
12 group and then 1/90th is what---.
13 BILL HARRIS: It's actually 1/90th?
14 ANITA TESTER: ---you know, that's what they own
15 in---.
16 BILL HARRIS: Okay.
17 ANITA TESTER: ---you know, in the heirship.
18 BILL HARRIS: Yeah. I just wondered what the
19 numbers represented.
20 ANITA TESTER: Yeah.
21 BILL HARRIS: Thank you.
22 BENNY WAMPLER: Other questions from members of the
23 Board?
24

1 (No audible response.)

2 BENNY WAMPLER: Do you have anything further?

3 MARK SWARTZ: No, I don't.

4 BENNY WAMPLER: Okay.

5 BOB WILSON: Mr. Chairman,---.

6 BENNY WAMPLER: Mr. Wilson.

7 BOB WILSON: ---for the purposes of drafting a

8 disbursement order for this group, kind of bring me up to

9 date on this because I was not present at the previous

10 hearing. The people in blue, are they being added from the

11 previous hearing; they were not mentioned in the previous

12 hearing, is that correct?

13 ANITA TESTER: No. I don't think any of the

14 disbursements have been done yet anyway. But I wanted to

15 kind of show that so that you know that's in addition to what

16 I submitted, I guess, back in April.

17 BENNY WAMPLER: They are being added.

18 BOB WILSON: Okay.

19 MARK SWARTZ: Right. What...what she's also saying

20 though is that because this has been continued and so forth--

21 BENNY WAMPLER: Right.

22 MARK SWARTZ: ---that the other disbursements, the

23 black, there has been testimony. That's already on your

24

1 radar.

2 BENNY WAMPLER: That's right.

3 MARK SWARTZ: But that hasn't happened yet either

4 for obvious reasons.

5 BENNY WAMPLER: That's right.

6 MARK SWARTZ: But the...but the blue are new people

7 that were not mentioned before.

8 BOB WILSON: Sure. Okay. That's all.

9 BENNY WAMPLER: Are you okay with that?

10 BOB WILSON: Yes, thank you.

11 BENNY WAMPLER: Let's take these one at a time

12 regarding this clarification addition. Is there a motion to

13 approve this?

14 MASON BRENT: I move that we approve it, Mr.

15 Chairman.

16 JIM MCINTYRE: Second.

17 BENNY WAMPLER: Motion is seconded. Any further

18 discussion?

19 (No audible response.)

20 BENNY WAMPLER: All in favor, signify by saying

21 yes.

22 (All members signify by saying yes.)

23 BENNY WAMPLER: Opposed, say no.

24

1 (No audible response.)

2 BENNY WAMPLER: You have approval there. As to the
3 approval of the...all the other disbursement requests based
4 on the letter from the Attorney General's office, are there
5 any questions at this point?

6 (No audible response.)

7 BENNY WAMPLER: Is there a motion?

8 JIM MCINTYRE: I make a motion that we approve them
9 as per this letter from the Assistant General...Attorney
10 General John K. Byrum, Jr.

11 BENNY WAMPLER: We have a motion.

12 BOB WILSON: Mr. Chairman, may I---?

13 BENNY WAMPLER: Mr. Wilson.

14 BOB WILSON: ---interject here before we vote on
15 this, there are still some reservations, as I read this
16 thing, relative to the indemnification letter and the
17 subsequent endorsement of that by the Attorney General's
18 office. There are still individuals who do have bonafide
19 liens against their properties. One being Bill Ratliff, who
20 is involved in three of the units. I believe he has been
21 excluded from the indemnification letter. The other thing
22 that the Attorney General's office in Richmond was working
23 on, one of the Plaintiffs has died, Donald R. Ratliff, and
24

1 there were some legal proceedings that needed to take place
2 to assure the Board, as I'm understanding it, that all of his
3 interest went...go to his widow, who is, I believe, Geneva
4 Ratliff. So, we need...I think you need to consider these
5 things before you do a blanket approval of all of this
6 because my reading the letter of indemnification does not
7 cover specifically---.

8 BENNY WAMPLER: He's not mentioned here. So, in
9 other words, the recommendation that we have before us is in
10 accordance with this letter. So, we can...we can certainly,
11 if the Board chooses, give you the authority to consult with
12 the Attorney General's office on how to treat any others not
13 mentioned here on disbursement, if that meets the Board's
14 approval, because they're working with you on those
15 disbursement orders anyway at my request.

16 BOB WILSON: Yes.

17 BENNY WAMPLER: Does that make sense to the Board
18 members?

19 PEGGY BARBAR: Yes. But this is with the exception
20 of Bill Ratliff.

21 BENNY WAMPLER: Right. We're talking about here.

22 BILL HARRIS: Yeah, I see that, the exception.
23 What I'm worried---.

24

--

1 BENNY WAMPLER: They just don't list him here.

2 BILL HARRIS: I'm wondering if that's good or bad
3 that they---.

4 BENNY WAMPLER: Well, what they're doing is they're
5 saying these individuals. That's what Bob's pointing out.

6 PEGGY BARBAR: Right.

7 BILL HARRIS: That he is not---?

8 BENNY WAMPLER: They're not...they're not saying
9 okay at this point in time for the other individuals. But
10 they're working...still working through that. I was told
11 yesterday that Donald R. Ratliff's widow will...will get
12 the...but that was a verbal...that was verbal. Bob would get
13 working with them on the draft order that would clarify that.

14 MASON BRENT: Well maybe we ought to have a
15 motion...I mean technically what we're doing...we've already
16 included the disbursements of this, we're really going to be
17 reaffirming that approval---.

18 BENNY WAMPLER: That's right.

19 MASON BRENT: ---within the guidelines and with
20 consultations with the Attorney General's office.

21 BENNY WAMPLER: Are you acceptable to having your
22 motion amended accordingly, Mr. McIntyre?

23 JIM MCINTYRE: Yes, I do.

24

--

1 MASON BRENT: Does that...does that meet...meet
2 your concerns, Mr. Wilson?

3 BOB WILSON: Yes. My...my only thing was that I
4 wanted to make sure that everybody understood that at least
5 one of these docket numbers on here concerns only the party
6 who has not yet been identified. I did get a---.

7 MASON BRENT: Nor mentioned...nor mentioned in
8 here, right?

9 BOB WILSON: Yes, true. I just, for the Board's
10 information, I got a faxed letter from Mr. Glubiak's office
11 on...last Friday afternoon stating that they think they have
12 the concerns ironed out so far as the IRS are concerned and
13 we are still working with our Richmond AG's office in order
14 to get that completed and was asking that these items be put
15 back on the October agenda in order to handle that. But as
16 I'm understanding your motion, that if this carries, then we
17 can deal directly with the Attorney General's office when
18 they have given us full indemnification we can proceed to
19 disburse all these funds, is that correct?

20 MASON BRENT: That's my motion.

21 JIM MCINTYRE: Uh-huh.

22 BENNY WAMPLER: Okay. So as I understand it, we
23 have a motion...a clarified motion that reaffirms the prior
24

1 approval for disbursement of these orders modified by, and in
2 accordance with, this letter that we received yesterday and
3 the Board was presented today...I received yesterday and
4 Board presented today with this letter, from the Assistant
5 Attorney General John K. Byrum, Jr., and authorizing Mr.
6 Wilson to work directly with the Attorney General's office to
7 clarify those others that are involved with these orders but
8 not specifically mentioned here until they meet that
9 approval, is that---?

10 MASON BRENT: That's correct.

11 BENNY WAMPLER: Is there a second

12 DENNIS GARBIS: I'll second.

13 PEGGY BARBAR: I'll second.

14 BILL HARRIS: I'll second. Three of them.

15 BENNY WAMPLER: Any further discussion? All in
16 favor signify by saying yes.

17 (All members signify by saying yes.)

18 BENNY WAMPLER: Opposed say no.

19 (No audible response.)

20 BENNY WAMPLER: We have a unanimous approval.

21 Thank you.

22 The next item on the agenda, the Board will
23 consider a petition from Equitable Production Company for
24

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1 well location exception for proposed well V-535986. This is
2 Docket Number VGOB-04-0817-0...I'm sorry, -1315. We'd ask
3 the parties that wish to address the Board in this matter to
4 come forward at this time.

5 PEGGY BARBER: Where are you going, Benny?

6 BENNY WAMPLER: Strike that.

7 PEGGY BARBER: Just hear me out.

8 BENNY WAMPLER: I have a...I don't know where that
9 came from.

10 PEGGY BARBER: You're way ahead of me.

11 BENNY WAMPLER: I have the old docket.

12 MARK SWARTZ: I move to dismiss.

13 BENNY WAMPLER: It's stricken, I don't know what
14 you're dismissing.

15 PEGGY BARBER: He's entertaining us.

16 BENNY WAMPLER: Okay. The next item on the agenda
17 is a petition from Columbia Natural Resources, LLC for
18 creation and pooling a conventional gas unit 24540, docket
19 number VGOB-04-0817-1327 continued from August. We'd ask the
20 parties that wish to address the Board in this matter to come
21 forward at this time.

22 JIM KISER: Mr. Chairman and members of the Board,
23 I'm Jim Kiser on behalf of Columbia Natural Resources, LLC.

24

--

1 If you look at your Docket, we continued this one in August
2 because we also need a location exception for this well,
3 which is item number 24 on the docket. So what we'd like to
4 do, in the past when we've had this situation we could either
5 combine the two or if that is a little confusing, then it
6 would probably be better for us to do the location exception
7 first and get the location approved before we establish the
8 unit and pool it. So---.

9 BENNY WAMPLER: Let's do that. I'll call
10 number...item 24. I'll also call, and we'll do this with
11 this one being first, a petition from Columbia Natural
12 Resources, LLC for a well location exception for proposed
13 well 24540, docket number VGOB-04-0921-1338. We'd ask the
14 parties that wish to address the Board in this matter to come
15 forward at this time. State your name again, please.

16 JIM KISER: I'm sorry. Jim Kiser on behalf of
17 Columbia Natural Resources, LLC. Our witness in this matter
18 will be Mr. Keenon...Robert Keenon. We'd ask that he be
19 sworn at this time.

20 (Robert Keenon is duly sworn.)

21 BENNY WAMPLER: The record will show there are no others. You
22 may proceed.

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ROBERT L. KEENON

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

QUESTIONS BY JIM KISER:

Q. Mr. Keenon, if you'd state your name for the Board, who
you're employed by and in what capacity.

A. Robert L. Keenon. I'm employed by CNR, LLC as a senior
petroleum engineer in the engineering department.

Q. And you've previously testified before the Board on
numerous occasions and your qualifications as an expert witness in the area of
operations and engineering have been accepted by the Board?

A. Yes.

Q. And do your responsibilities include the land involved in
this unit and the surrounding area?

A. Yes.

Q. And are you familiar with the application we filed seeking a
location exception for well number 24540?

A. Yes.

Q. Now, have all interested parties been notified as required
by Section 4B of the Virginia Gas and Oil Board of Regulations?

A. Yes.

Q. Now, could you state at this time for the Board the
ownership underlying the unit, the oil and gas ownership underlying the unit for
well number 24540?

1 A. For 24540, Big Sandy Coal is 96.81%, Buchanan Realty
2 through Jewell Smokeless, a George Belcher Estate, has a 3.19% working
3 interest.

4 Q. Royalty interest?

5 A. A royalty interest, I'm sorry.

6 Q. Okay. And now, let's see, we are seeking an exception
7 from one well here, that being CNR well number 20439, is that correct?

8 A. That is correct.

9 Q. That's a reciprocal well and does CNR have the right to
10 operate that well?

11 A. We do.

12 Q. And are there any correlative rights issues?

13 A. No.

14 Q. So, in saying that, you mean that the oil and gas ownership
15 in the unit for the reciprocal well is also owned by Big Sandy Coal, is that correct?

16 A. That is correct.

17 Q. Okay. And could you explain for the Board, in conjunction
18 with the Exhibit A that you've prepared and handed out, why we are seeking this
19 exception?

20 A. Basically, just to give you an idea of that topographic
21 features of the area, this location was to...was inputted to fill a void between wells
22 that existed and wells that we're...are currently in the plan or that we're currently
23 in the process of drilling. Due to the topographic features that existed, this
24 became the most suitable location. If you have the plat, you'll realize that it didn't

1 really matter in what direction we went, there was going to be a spacing exception
2 to either one well or the other. We are currently crowding well 20439, but to have
3 moved it in three out of four possible locations, we would have been within 2,500
4 feet of 25452 or 24541. This location is situated on a strip bench that's easy
5 access and there's very steep terrain for 200 to 300 feet on either side.

6 JIM KISER: Any questions regarding the exhibit, Mr. Chairman?

7 BILL HARRIS: Just one.

8 BENNY WAMPLER: Mr. Harris.

9 BILL HARRIS: Moving northeast---?

10 ROBERT L. KEENON: We anticipate doing an additional location.

11 BILL HARRIS: Okay. Thank you.

12 Q. And, again, there are no correlative rights issues with
13 ownership and their reciprocal units?

14 A. That is correct.

15 BENNY WAMPLER: Do you have your...Exhibit A has the number 8
16 in front of the numbers. Do you want to explain that?

17 ROBERT L. KEENON: Sorry about that. we've kind of touched on
18 that before. This is our internal, I guess, numbering system. Due to the number
19 of successor companies that existed that were...that made up part of Columbia,
20 there were just different prefixes that were created to indicate who the parent
21 company or from what source they came. The 8 indicates that it was a United
22 Fuel predecessor company. Not to be confusing, but I mean if you see a 7, that
23 was Ohio Fuel Gas, 6 was Cumberland Allegheny Manufacture Heat and Light. It
24 just had to do with the time that these companies were acquired. There were

--

1 duplicate well numbers that existed. There might be...we might have three 1511's
2 or three 2484's. So, to create some type of a unique numbering system at the
3 time, there was either an 80 or an 8 type prefix that was created to give them a
4 unique identification number with the current numbering system, it's just a five
5 digit system as far as what we submit to the State. Unfortunately, internally we
6 still keep the six digit numbering system to be able to identify our own wells within
7 our databases.

8 JIM KISER: We are trying to make sure that we just use five digits
9 going forward.

10 BENNY WAMPLER: When you're locating these wells on old strip
11 benches, I would just remind you to make sure that if they're moving material
12 against the high wall that they're very careful in doing that because a lot of times
13 not only can they disturb a rock above the high wall, they can open up an old
14 auger hole that may be full of water or something like that. That's something that
15 you need to be ever cautious, everybody that drills out there. Other questions
16 from members of the Board?

17 (No audible response.)

18 BENNY WAMPLER: Do you have anything further?

19 JIM KISER: Yes, sir.

20 Q. Mr Keenon, in the event to locate... this location exception
21 were not granted, would you project the estimated loss of reserves resulting in
22 waste?

23 A. 400 million standard cubic feet.

24 Q. And what's the total depth of the proposed well?

~ ~

1 A. 5,250 feet.

2 Q. And are you requesting that this location exception cover
3 conventional gas reserves including the designated formations from the surface to
4 the total depth drilled?

5 A. Yes.

6 Q. And in your professional opinion, would the granting of this
7 application be in the best interest to preventing waste, protecting correlative rights
8 and maximizing the recovery of the gas reserves underlying the unit for well
9 24540?

10 A. It would.

11 JIM KISER: No further questions at this time, Mr. Chairman.

12 BENNY WAMPLER: Questions from members of the Board?

13 (No audible response.)

14 BENNY WAMPLER: Do you have anything further?

15 JIM KISER: We'd ask that the application be approved as
16 submitted.

17 BENNY WAMPLER: Is there a motion?

18 MASON BRENT: Mr. Chairman, I'd move that we approve the well
19 location exception.

20 BILL HARRIS: Second.

21 BENNY WAMPLER: Motion and second. Any further discussion?

22 (No audible response.)

23 BENNY WAMPLER: All in favor signify by saying yes.

24 (All members signify by saying yes.)

--

1 BENNY WAMPLER: Opposed say no.

2 (No audible response.)

3 BENNY WAMPLER: You have approval. I have already called
4 number 12 item. So you may proceed by that.

5 JIM KISER: Mr. Chairman, again Jim Kiser on behalf of Columbia
6 Natural Resources, LLC. We do have an additional witness for this matter, Ms.
7 Lynette Greene. I would ask that she be sworn at this time.

8 (Lynette Greene is duly sworn.)

9 BENNY WAMPLER: Record will show there are no others. You may
10 proceed.

11

12 LYNETTE GREENE

13 having been duly sworn, was examined and testified as follows:

14 DIRECT EXAMINATION

15 QUESTIONS BY JIM KISER:

16 Q. Ms. Greene, if you'd state your name for the Board, who
17 you're employed by and in what capacity.

18 A. My name is Lynette Greene. I'm a senior land
19 representative for Columbia Natural Resources.

20 Q. And do your responsibilities include the land involved in
21 this unit and the surrounding area?

22 A. Yes.

23 Q. And are you familiar with the application we filed seeking
24 to establish a drilling unit and pooling any unleased interest for CNR well number

~

1 24540, which was dated July 16, 2004?

2 A. Yes.

3 Q. Does CNR own drilling rights in the unit here?

4 A. Yes.

5 Q. Does the proposed unit, as depicted as Exhibit A that

6 being applied to the application, include all acreage within a 1250 foot radius?

7 A. Yes.

8 Q. Now, prior to filing of the application, were efforts made to

9 contact each of respondents listed in Exhibit B and an attempt made to work out

10 agreement regarding a voluntary lease?

11 A. Yes.

12 Q. What is the interest of CNR under lease within this unit?

13 A. At the time of application, 99.203%.

14 Q. And are you familiar with the drilling rights of parties other

15 than CNR in this unit?

16 A. Yes.

17 Q. And what interest remains unleased at this time?

18 A. 0.796%.

19 Q. All right. Now, are all the unleased parties set out in

20 Exhibit B-3?

21 A. Yes.

22 Q. We don't have any unknown interest owners, is that

23 correct?

24 A. That's correct.

1 Q. And in your professional opinion, was due diligence
2 exercised to locate each of the respondents named in the Exhibits?

3 A. Yes.

4 Q. Are the addresses set out in Exhibit B to the application the
5 last known address is for the respondents?

6 A. Yes.

7 Q. Are you requesting this Board to force pool all the
8 unleased interest as listed at Exhibit B-3?

9 A. Yes.

10 Q. Now, are you familiar with the fair market value of drilling
11 rights in the unit here and the surrounding area?

12 A. Yes.

13 Q. Could you advise the Board as to what those are?

14 A. A five dollar bonus, a five year term, one-eighth royalty.

15 Q. Did you gain your familiarity by acquiring oil and gas
16 leases and other agreements involving the transfer of the drilling rights in the unit
17 involved here in the surrounding area?

18 A. Yes.

19 Q. In your professional opinion, do the terms you've just
20 testified to represent the fair market value of and fair and reasonable
21 compensation to be paid for drilling rights within this unit?

22 A. Yes.

23 Q. Now based on those respondents listed in Exhibit B-3, do
24 you agree that they be allowed the following options with respect to their

--

1 ownership interest within the unit: one, participation; two, a cash
2 bonus of five dollars per net mineral acre, plus a one-eighth
3 of eight-eighths royalty; or three, in lieu of a cash bonus
4 and a one-eighth of eight-eighths royalty, a share in the
5 operation of the well on a carried basis as a carried
6 operator under the following conditions: Such carried
7 operator shall be entitled to the share of production from
8 the tracts pooled accruing to his interest exclusive of any
9 royalty or overriding royalty reserved in any leases,
10 assignments thereof, or agreements relating thereto of such
11 tracts but only after the proceeds applicable to that share
12 equal, A), 300% of the share of such cost applicable to the
13 interest of a carried operator of a leased tract or portion
14 thereof; or B), 200% of the share of such cost applicable to
15 the interest of the carried operator of an unleased tract or
16 portion thereof?

17 A. Yes.

18 Q. Do you recommend that the order provide that
19 the elections by respondents be in writing and sent to the
20 applicant at Columbia Natural Resources, LLC, 900
21 Pennsylvania Avenue, Charleston, West Virginia 25302,
22 attention Lee Robinson?

23 A. Yes.

24

--

1 Q. Should this be the address for all
2 communications with the applicant concerning any force
3 pooling order?

4 A. Yes.

5 Q. Do you recommend that the order provide that
6 if no written election is promptly made by a respondent, then
7 such respondent should be deemed to have elected the cash
8 royalty option in lieu of any participation?

9 A. Yes.

10 Q. Should unleased respondents be given 30 days
11 from the date of the execution of the Board order to file
12 their written elections?

13 A. Yes.

14 Q. If an unleased respondent elects to
15 participate, should they be given 45 days to pay for their
16 proportionate share of well costs?

17 A. Yes.

18 Q. Does the applicant expect that party
19 electing to participate to pay in advance that party's share
20 of completed well cost?

21 A. Yes.

22 Q. Should the applicant be allowed 120 days
23 following the recordation date of the Board order, and
24

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1 thereafter annually on that date until production is
2 achieved, to pay or tender any cash bonus becoming due under
3 the force pooling order?

4 A. Yes.

5 Q. Do you recommend that the order provide that
6 if the respondent elects to participate but fails to pay
7 their proportionate share of costs satisfactory to the
8 applicant then the respondent's election to participate
9 should be treated as having been withdrawn and void?

10 A. Yes.

11 Q. Do you recommend that the order provide that
12 where a respondent elects to participate but defaults in
13 regard to the payment of well costs, any cash sum becoming
14 payable to that respondent be paid within 60 days after the
15 last date on which such respondent could have paid or made
16 satisfactory arrangements for the payment of the well costs?

17 A. Yes.

18 Q. We do not have any unknown unlocateable
19 owners within this unit. So, the Board does not need to
20 establish an escrow account, is that correct?

21 A. That's correct.

22 Q. Okay. And who should be named the operator
23 under any force pooling order?

24

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1 A. Columbia Natural Resources, LLC.

2 JIM KISER: No further questions for this witness
3 at this time, Mr. Chairman.

4 BENNY WAMPLER: Questions from members of the
5 Board?

6 (No audible response.)

7 BENNY WAMPLER: Do you have anything further?

8 JIM KISER: Mr. Keenon.

9

10 ROBERT L. KEENON

11 having been duly sworn, was examined and testified as
12 follows:

13 DIRECT EXAMINATION

14 QUESTIONS BY MR. KISER:

15 Q. Mr. Keenon, again, state your name and who
16 you work for and in what capacity.

17 A. Robert L. Keenon. I'm a senior petroleum
18 engineer for CNR, LLC.

19 Q. And you're familiar with the proposed
20 exploration development of this unit?

21 A. Yes.

22 Q. And what's, again, the total depth of the
23 well?

24

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1 A. 5,250 feet.

2 Q. And are we requesting that this force
3 pooling of conventional gas reserves not only to include
4 designated formations but any other formations excluding coal
5 formations which may be between those formations designated
6 from the surface to the total depth drilled?

7 A. Yes.

8 Q. And what are the estimated reserves for this
9 unit?

10 A. 400 million cubic feet.

11 Q. Now, are you familiar with the well costs
12 under the proposed plan of development?

13 A. Yes.

14 Q. Has an AFE been reviewed, signed and
15 submitted to the Board as Exhibit C to the application?

16 A. Yes.

17 Q. Was this AFE prepared by an engineering
18 department knowledgeable in the preparation of AFE's, in
19 particular in regard to well costs in this area?

20 A. Yes.

21 Q. In your opinion, does it represent a
22 reasonable estimate of the well costs?

23 A. Yes.

24

--

1 Q. Could you state for the Board both the dry
2 hole costs and completed well costs?

3 A. The estimated dry hole costs are \$280,735;
4 completed well costs including pipeline are \$377,420.

5 Q. Do these costs anticipate a multiple
6 completion?

7 A. They do.

8 Q. Does your AFE include a reasonable charge
9 for supervision?

10 A. Yes.

11 Q. And in your professional opinion, would the
12 granting of this force pooling application be in the best
13 interest for conservation and prevention of waste and
14 protection of correlative rights?

15 A. Yes.

16 JIM KISER: Nothing further of this witness at this
17 time, Mr. Chairman.

18 BENNY WAMPLER: Questions for this witness by
19 members of the Board?

20 MASON BRENT: Whose signature is this on the AFE?

21 ROBERT L. KEENON: Henry Harman

22 MASON BRENT: He's your chief executive officer?

23 ROBERT L. KEENON: Yes, sir, he is.

24

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1 BENNY WAMPLER: Other questions?

2 MASON BRENT: I have one of a general nature if
3 that's all right.

4 BENNY WAMPLER: Go ahead.

5 MASON BRENT: I notice on your logo that it says
6 you are a Triana Energy Company. Could you tell us a little
7 bit about that Triana?

8 ROBERT L. KEENON: Well, Columbia Natural Resources
9 was previously part of NySource. NySource essentially put
10 the E & P section, won the block. Triana Energy is a holding
11 company affiliated with Morgan Stanley. They were
12 essentially the successful bidders whenever the company went
13 up for sale. I'm not sure if you're aware, but really the
14 Triana Energy Company was formed by a majority of previous
15 CNR management personnel who left the company to form their
16 own company and then began this affiliation with Morgan
17 Stanley.

18 MASON BRENT: I'm somewhat familiar with that.

19 BENNY WAMPLER: How is the hierarchy now then?

20 ROBERT L. KEENON: Henry Harmon is president and
21 CEO. I mean, he has meetings or reports periodically with
22 different members of the...Morgan Stanley has created a
23 consortium of different banking interests that really have
24

1 put up, I guess, some of the capital loans or the funding for
2 the company. Right now there's just a...like I said there
3 are quarterly meetings where we present what we've done on
4 during the past quarter and what we anticipate to do. I'm
5 not really sure just exactly where you're heading or what
6 type of information you need.

7 BENNY WAMPLER: I was just interested in the
8 relationship with that with Columbia Natural Resources, LLC--

9 ROBERT L. KEENON: I mean---.

10 BENNY WAMPLER: ---with Triana Energy.

11 ROBERT L. KEENON: Well, rather...I mean,
12 previously whenever we were a part of NySource, our company
13 name was Columbia Natural Resources, Inc.

14 BENNY WAMPLER: Right.

15 ROBERT L. KEENON: And basically the biggest change
16 that has occurred is now we're referred to as Columbia
17 Natural Resources, LLC. I mean, that was just something that
18 occurred as part of the sale. That and the fact that we have
19 to give up the little star symbol that was a NySource logo as
20 far as over the "I" in Columbia.

21 JIM KISER: I guess, I think, what maybe he's
22 asking, Robert, is Columbia Natural Resources, LLC a
23 subsidiary of Triana Energy Company?

24

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1 ROBERT L. KEENON: Subsidiary or wholly owned
2 subsidiary, yeah.

3 JIM KISER: Wholly owned subsidiary.

4 BENNY WAMPLER: Okay. Thank you. Other questions
5 from members of the Board?

6 (No audible response.)

7 BENNY WAMPLER: Do you have anything further?

8 JIM KISER: We'd ask that the application be
9 approved as submitted, Mr. Chairman.

10 BENNY WAMPLER: Is there a motion?

11 JIM MCINTYRE: I make a motion that we approve the
12 application.

13 MASON BRENT: Second.

14 BENNY WAMPLER: Motion and second. Any further
15 discussion?

16 (No audible response.)

17 BENNY WAMPLER: All in favor, signify by saying
18 yes.

19 (All members signify by saying yes.)

20 BENNY WAMPLER: Opposed, say no.

21 (No audible response)

22 BENNY WAMPLER: You have approval. You have other
23 items on the agenda. Is it---?
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1 JIM KISER: Yes. I think it's okay with CNX that we
2 go ahead.

3 BENNY WAMPLER: You may have to bargain. Do you
4 want to go ahead with Columbia?

5 JIM KISER: Yeah. If I can go ahead and do theirs
6 and then we'll switch to Equitable.

7 BENNY WAMPLER: That's Item 25, is that right? Is
8 there another one?

9 JIM KISER: Right, 25 and...yeah 25 and 26.

10 BENNY WAMPLER: 26. Okay. The next item on the
11 agenda is the petition from Columbia Natural Resources, LLC
12 for creation and pooling of conventional gas unit 25403,
13 docket number VGOB-04-0921-1339. We'd ask the parties that
14 wish to address the Board in this matter to come forward at
15 this time.

16 JIM KISER: Mr. Chairman, again, Jim Kiser on behalf
17 of Columbia Natural Resources, LLC. Our witnesses again will
18 be Mr. Keenon and Ms. Greene.

19 BENNY WAMPLER: They've been previously sworn.

20 JIM KISER: Previously sworn.

21 BOB WILSON: Mr. Chairman, staff received a letter
22 from Lois and Brenda D. Johnson with regard to this
23 particular docket number. I'll pass it out to the Board
24

1 members right now.

2 BENNY WAMPLER: Okay. While he's doing that, the
3 record will show there are no others. You may proceed.

4 JIM KISER: Do you want to go ahead and go through
5 the testimony before we address this or---?

6 BENNY WAMPLER: That's your call.

7 JIM KISER: Well, let's go ahead and address this.
8 Why don't you all read it and then we'll address it and then
9 we'll go through the testimony.

10 (Bob Wilson passes out a letter. The Board members
11 review the letter.)

12 BENNY WAMPLER: Okay, you may address this letter
13 that we just received.

14 JIM KISER: Okay. And I have...I've only got one
15 copy of this right now but I can pass it around for the Board
16 and if you need me to make additional copies I can email them
17 or get them to Mr. Wilson's office.

18 BENNY WAMPLER: As long as we get Mr. Wilson a copy.

19 JIM KISER: Yeah. This is Mr. Lee, who is a
20 contract land agent who is working on this well for CNR.
21 This is his response to Ms. Johnson to show that he did
22 respond to it. It includes a letter, a copy of a offer of a
23 paid up oil and gas lease with an exhibit showing the 134.72

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1 acre tract that's at issue here and a copy of a chain of
2 title for their interest. If I can kind of go through this
3 for a minute because it sort of dovetails with the next well
4 we're going to force pool, too, that's on the docket.

5 The Pobst, Looney, Sheffield, all this...these
6 undivided interests originally...most of these folks'
7 property are included in a 2306 acre lease that was taken in
8 1948. It was about, I think, 21 tracts in that lease. This
9 particular tract, 134.72 acre tract, was not included in that
10 lease. The Johnsons got their interest through the Will of
11 Francis Looney Turner. They apparently were unaware that
12 they even owned this interest and that was their, you know,
13 questioning and concern that they were addressing in that
14 letter. This was CNR's response, which I think explains
15 where their interest came from and where the tract lies and
16 what it looks like very adequately. And we are still
17 attempting to obtain a voluntary lease not only from them,
18 but these other very little undivided interests who also were
19 unaware that they owned anything in this tract including John
20 Sheffield and his brother and Cline & McAfee, that whole
21 group.

22 BENNY WAMPLER: Go ahead and proceed and we'll be
23 looking at that while you're doing that.

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LYNETTE GREENE

3 having been duly sworn, was examined and testified as follows:

4

DIRECT EXAMINATION

5 QUESTIONS BY JIM KISER:

6

Q. Ms. Greene, again state your name, who you're employed

7 by and what capacity?

8

A. Lynette Greene, senior land representative for Columbia

9 Natural Resources.

10

Q. And you're familiar with the application

11 that we filed seeking to establish a drilling unit and

12 pooling any unleased interest for CNR well number 25403,

13 which was dated August 20th, 2004?

14

A. Yes, sir.

15

Q. And does CNR own drilling rights in the unit

16 involved here?

17

A. Yes.

18

Q. And prior to filing the application, were

19 efforts made to contact each of the respondents and an

20 attempt made to work out a voluntary agreement?

21

A. Yes.

22

Q. And what is the interest of CNR that's under

23 lease within this unit?

24

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1 A. 99.310 of the unit under lease at the time
2 of application.

3 Q. And are you familiar with the ownership of
4 drilling rights of parties other than CNR underlying this
5 unit?

6 A. Yes.

7 Q. And what percentage of the unit remains
8 unleased at this time?

9 A. 0.689%.

10 Q. And are all the unleased parties set out at
11 Exhibit B-3?

12 A. Yes.

13 Q. And, again, if I'm not mistaken, we've
14 identified all parties. There aren't any unknown interest
15 owners?

16 A. That's correct.

17 Q. And, in your professional opinion, was due
18 diligence exercised to locate each of the respondents named?

19 A. Yes.

20 Q. And are the addresses as set out in Exhibit
21 B to the application the last known addresses for the
22 respondents?

23 A. Yes.

24

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1 Q. Are you requesting this Board to force pool
2 all unleased interests listed at Exhibit B-3?

3 A. Yes.

4 Q. Again, are you familiar with the fair market
5 value of drilling rights in the unit here and in the
6 surrounding area?

7 A. Yes.

8 Q. Could you advise the Board as to what those
9 are?

10 A. It's a five dollar bonus for a five year
11 term and a one-eighth royalty.

12 Q. And, in your professional opinion, do the
13 terms you've just testified to represent the fair market
14 value of and fair and reasonable compensation to be paid for
15 drilling rights within this unit?

16 A. Yes.

17 JIM KISER: Mr. Chairman, at this time regarding
18 the election options, statutory options afforded the unleased
19 parties, I would like to incorporate the testimony that was
20 just previously taken in docket number 04-0817-1327.

21 BENNY WAMPLER: That will be incorporated.

22 Q. And, Ms. Greene, we do not need to establish
23 an escrow account for this well either, is that...the Board
24

1 does not need to establish an escrow account for this well,
2 is that correct?

3 A. That's correct.

4 Q. And who should be named operator under the
5 force pooling order?

6 A. Columbia Natural Resources, LLC.

7 JIM KISER: That's all I have for this witness at
8 this time, Mr. Chairman.

9 BENNY WAMPLER: Questions from members of the Board
10 of this witness?

11 (No audible response)

12 BENNY WAMPLER: Call your next witness.

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ROBERT L. KEENON

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

QUESTIONS BY JIM KISER:

- Q. Mr. Keenon, do your responsibilities include the land here and in the surrounding area?
- A. They do.
- Q. And you're familiar with the proposed expiration for this well?
- A. Yes.
- Q. And what's the total depth?
- A. 5300 feet.
- Q. And we're requesting the force pooling to cover conventional gas reserves including designated formations and any other formations excluding coal formations which may be between those formations from the surface to the total depth drilled?
- A. We do.
- Q. And the estimated reserves for this unit?
- A. 415 million standard cubic feet.
- Q. And are you familiar with the well costs for this well?
- A. Yes.
- Q. And has an AFE been reviewed, signed and submitted to the Board as Exhibit C?
- A. Yes.

1 Q. Does this AFE, in your opinion, represent a reasonable
2 estimate of the well costs?

3 A. Yes.

4 Q. Could you state for the Board both the dry hole costs and
5 completed well costs for this well?

6 A. Estimated dry hole costs are \$198,109; completed well
7 costs anticipated to be \$400,493.

8 Q. And do these costs anticipate a multiple completion?

9 A. They do.

10 Q. Does your AFE include a reasonable charge for
11 supervision?

12 A. Yes.

13 Q. And, in your professional opinion, would granting this
14 application be in the best interest of conservation, the prevention of waste and the
15 protection of correlative rights?

16 A. Yes.

17 JIM KISER: Nothing further of this witness at this time, Mr.
18 Chairman.

19 BENNY WAMPLER: Questions from the members of the Board?

20 MASON BRENT: When was the last time you corresponded with the
21 Johnsons?

22 JIM KISER: I'd have to bring Mr. Lee down here to answer that
23 question, I don't know. We'll probably need to go ahead and swear you in too.
24 This is Mr. Kelly Lee.

1 (Kelly Lee is duly sworn.)

2

3 KELLY LEE

4 having been duly sworn, was examined and testified as follows:

5 DIRECT EXAMINATION

6 QUESTIONS BY JIM KISER:

7 Q. Mr. Lee, when was the last time you talked with Mr. and
8 Mrs. Johnson?

9 A. June 24th was my last correspondence. I believe June
10 17th, I contacted her on the phone and had a detailed conversation with her. My
11 letter on June 24th was the final contact I have had. We...I have left a message
12 with her between June 17th and June 24th and did not receive a phone call back
13 from her. Apparently....I have been aware that she tried to email me on
14 September 9th, but I have not been able to find that email record in either of my
15 accounts that I operate.

16 Q. If I may elaborate a little bit in discussing with her...land
17 department personnel, sort of a hold up here because, you know, you would think
18 the Johnsons would probably be okay with leasing. I think what Mrs. Johnson
19 wanted Mr. Lee to do, or requested that he do at one point was to, which is sort of
20 outside the bounds of this well and probably his job responsibilities regarding this
21 well, was to title and map all of their interest within Buchanan County, not just in
22 this 134.72 acre tract. I guess he kind of respectfully told her that, you know, that
23 wasn't his charge at least, you know, for this well and that was outside the realm
24 of his responsibility here and apparently the contact since that has stalled.

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1 BENNY WAMPLER: Of course, what we have before us is that they
2 say that they acknowledge that he's sent what you're showing us here in June in
3 the letter. And they say that they also requested copies of the deeds to be sent to
4 them. What's your response to that?

5 KELLY LEE: The copies of the deeds were quite extensive in that
6 title. Mrs. Johnson, although a knowledgeable person, has a very hard time
7 understanding real estate law. At the time, I didn't send the deeds to her because
8 of the complexity of the title and I was hoping to be able to meet with them in a
9 person to person to explain the entire ownership of the property. Due to the
10 complexity... Mrs. Johnson's husband is a distant cousin of the person they
11 inherited the property from. Prior to that inheritance, they knew nothing of the oil
12 and gas or coal industry. They do not know what they have under lease. They do
13 not know what royalty checks come to them for what purpose. I have explained in
14 lengthy phone conversations with her, as best possible in laymen terms, what I
15 was dealing with here. I explained to her that we needed to operate the 134.72
16 acre lease and attend to the other tracts as they became known to us, the only
17 way we can physically do it by the records in the courthouse. I honestly can't
18 answer as far as what her response on that was. Like I say, her husband works
19 out of town, they travel quite frequently and she was never willing to set up a time
20 where I could go to Blacksburg and meet with her. I have been to her house three
21 times and never met with anyone but her sis...excuse me, her daughter, at the
22 time.

23 JIM KISER: Okay. Mr. Chairman, if it might help, we did the title
24 opinion on 134 acres and I just got this from Mr. Wilson on Thursday, I guess after

1 he got it, of last week. But, you know, I'll be happy to send her the deeds that
2 lead into...out of Carl Looney to Francis Looney and then Francis Looney's Will,
3 which is how they got their... Francis Turner...Looney Turner's Will, which is how
4 they got their interest. I don't have any problem with it.

5 BENNY WAMPLER: Well, I think that would be good. I mean,
6 obviously, this tract is before the Board. So if you agree to do that it appears to
7 resolve the objection here. Any other questions?

8 JIM KISER: I would have done it by now, I just hadn't had time.

9 BENNY WAMPLER: All right. Other questions from members of the
10 Board?

11 (No audible response)

12 BENNY WAMPLER: Do you have anything further?

13 JIM KISER: We'd ask that the application be approved as submitted,
14 Mr. Chairman.

15 BENNY WAMPLER: Is there a motion?

16 DENNIS GARBIS: Mr. Chairman, I move to approve it.

17 JIM McINTYRE: Second.

18 BENNY WAMPLER: Motion and second. Any further discussion?

19 (No audible response)

20 BENNY WAMPLER: All in favor, signify by saying yes.

21 (All members signify by saying yes)

22 BENNY WAMPLER: Opposed, say no.

23 (No audible response)

24 BENNY WAMPLER: You have approval.

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1 BOB WILSON: Is this my copy or are you going to furnish me a
2 copy?
3 KELLY LEE: He can keep that and I can make other copies.
4 BOB WILSON: Okay.
5 JIM KISER: You can have it.
6 BOB WILSON: This letter will go in the file.
7 BENNY WAMPLER: Okay. The next item is a petition, this is
8 number 26 for the Board reference, a petition from Columbia Natural Resources,
9 LLC for creation and pooling of conventional gas unit 25407, docket number
10 VGOB-04-0921-1340. We'd ask the parties that wish to address the Board in this
11 matter to come forward at this time.
12 JIM KISER: Again, Jim Kiser, Lynette Greene and Robert Keenon. I
13 do have some revised exhibits---.
14 BENNY WAMPLER: Okay.
15 JIM KISER: ---for this well that I'd like to pass out.
16 BOB WILSON: Mr. Chairman, once more---.
17 BENNY WAMPLER: Mr. Wilson.
18 JIM KISER: We have another letter.
19 BOB WILSON: ---we have received correspondence. This was
20 on the fax machine this morning when we came in---.
21 BENNY WAMPLER: Okay.
22 BOB WILSON: ---from a party who is opposed to this pooling.
23 JIM KISER: One of the tracts involves this same interest. A
24 different tract though, this particular tract is in the 1948 lease.

1 (Jim Kiser and Bob Wilson pass out documents.)

2 BENNY WAMPLER: Thank you.

3 BOB WILSON: Mr. Chairman.

4 BENNY WAMPLER: Mr. Wilson.

5 BOB WILSON: I might add that Mr. Sheffield is the author of the
6 letter I passed out. Also faxed to us a copy of the lawsuit that he mentions in
7 there, which we've placed in the file if it's of interest to anybody.

8 BENNY WAMPLER: Mr. Kiser?

9 JIM KISER: Yes. Mr. Chairman, again, if we could
10 address this letter because, I guess, its...obviously, it
11 will be relevant whether we move forward with this one at
12 this time before we get into the testimony. This particular
13 tract which is...that's in issue in this unit, is Tract 4 and
14 it is a 51 acre...51, I think, .15 acre tract in total, you
15 know, which 12.15 acres are in the unit. It is included in
16 the 1948 lease. The 1948 lease, or at least some of the
17 tracts in the 1948 lease, of which this actually is not one,
18 are the subject of a lawsuit that was filed in 1995 on behalf
19 of some of the Jessie May Pobst heirs, which these folks are
20 with CNR. In fact, Mr. Swartz, who's conveniently not in the
21 room, represents CNR, and I asked him about the history of
22 this lawsuit this morning before we got started. He said he
23 has asked several times that it be dismissed for failure on

24

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1 the part of the Plaintiffs to prosecute. Apparently, Don
2 Johnson was the original attorney and they keep switching
3 attorneys. And each time they switch attorneys they say
4 we're going to do something about it and then they never do
5 anything. So it's been sitting out there now for almost ten
6 years. What it concerns is a interpretation of the lease and
7 whether or not a clause in the lease, now this is the 1948
8 lease that includes...it's about a 2300 acre lease and made
9 up of 21 separate tracts, some of which are contiguous and
10 some of which are not. And their position is that there
11 isn't a valid entireties clause in the lease which would mean
12 that royalty should be a portion no matter where...what tract
13 the wells are drilled on. CNR's position is that it's not a
14 valid entireties clause. Therefore, the royalty should be
15 non-apportioned. That's what's at issue. It involves a 2/9ths interest,
16 Marjorie Coleman...but it doesn't...this tract's not involved in...I mean, it's in the
17 lease but it's not involved in the apportionment/non-apportionment issue. The
18 Marjorie Coleman people are not part of this tract.

19 He, I think, I've talked to Mr. Sheffield probably a dozen times in the
20 last month, and I think his goal at this point, since they're not getting any action
21 out of their attorneys, is to contact all the parties involved and get them to agree
22 on a division of interest or a stipulation of interest as to who should get what, you
23 know, under these...under this interest. You know, whether or not he can achieve
24 that I don't know. You know, I guess it would be good for everyone if he could.

--

1 It's our position that we have all the parties properly notified. It's our position that
2 this is a interpretation of a lease and a private contractual matter. It's our
3 interpretation that this shouldn't be continued because there is 93% of the interest
4 that want to go forward here and this...what he's representing in his request for a
5 continuance and only represents 7% of the unit. So...and I tried to explain to him
6 in about a 45 minute conversation yesterday that I truly believe if we go forward
7 with the force pooling and are allowed to drill the well that if this is not settled by
8 the time that well is put online then we will internally escrow an interest bearing
9 account all the proceeds that are attributable to that 7% that he says, you know,
10 are involved in this lawsuit.

11 So I guess my point being is, I don't think his interest can be
12 prejudiced or damaged in anyway by us going ahead and moving forward with this
13 today and that we would be recognizing the interest of 93% of the unit who does
14 want to go forward. So I would request that we go ahead and have the hearing
15 and we would go on the record and are going on the record now as saying that
16 7% that he says he wants it continued for that we would internally escrow until
17 either this lawsuit is dismissed, adjudicated, settled or he provides us with a
18 recordable instrument from all the parties that stipulate their interest as to how
19 they want to be paid.

20 BENNY WAMPLER: Did you say this portion that's in this particular
21 hearing before the Board is not part of the hearing? At the very beginning you
22 said something---.

23 JIM KISER: Well let me....let me explain that further. This tract is in
24 the unit and this tract is in the lease and I think that the Marjorie Coleman interest,

--

1 which he says was not notified, is not in this tract.

2 BENNY WAMPLER: Okay.

3 JIM KISER: Okay?

4 BENNY WAMPLER: Mr. Wilson, do you have any thoughts to share
5 with the Board?

6 BOB WILSON: No, sir. I've talked to...with Mr. Sheffield a number of
7 times as well and he's trying to figure up...I think, to iron some of these things out
8 long distance. He's in Texas and is trying to take care of lots of interest I think
9 that have gone without anybody managing for sometime now. But I have no input
10 really on the---.

11 JIM KISER: Of course, I'm not under oath but I can go under oath. I
12 can...I would tell the Board that he has told me on numerous occasions he is pro-
13 development. He wants the well to be drilled. He just wants to try to get this
14 cleared up in advance. And, you know, our position, again, would be that it
15 represents a very minority small part of the unit and his interest won't be
16 prejudiced if we agree to internally escrow any proceeds attributable to that
17 interest until he can somehow solve that. But, you know, for him to assert or hope
18 that he can solve it in 60 days when the things been out there for nine years is
19 probably optimistic.

20 BENNY WAMPLER: And why would you offer to internally escrow
21 versus just escrowing with the Board's escrow with it?

22 JIM KISER: Well, why would it be subject to the Board escrow if it's
23 leased?

24 BENNY WAMPLER: Well, those---.

--

1 JIM KISER: Well, I don't care. We'll escrow it either way. If you
2 want to do it with the Board, I don't know that you have jurisdiction to do that.

3 BOB WILSON: In general, under a conventional well, you would only
4 escrow if the owner was unknown or---.

5 JIM KISER: Unknown or unlocateable.

6 BOB WILSON: This is a kind of special situation because it's not in
7 conflict. It's just that he has a lease that's being contested, but it's not...does not
8 have a pooling clause as I understand it.

9 JIM KISER: Right.

10 BOB WILSON: That's why he would fall under this jurisdiction,
11 correct?

12 BENNY WAMPLER: Right.

13 JIM KISER: Yeah. This pooling...we're doing two different things
14 here. We have some unleased interest which we've gotten some additional lease
15 which is one reason for the revised exhibit, which are represented by the
16 Buchanan and White heirs interest, and we have this lease, this 1948 lease,
17 which doesn't contain a pooling clause. So, we're pooling some leased interest
18 and some unleased interest.

19 BENNY WAMPLER: I'll let you go ahead and start your testimony
20 and we'll have some questions as we go. Go ahead.

21 JIM KISER: All right.

22

23 LYNETTE GREENE

24 having been duly sworn, was examined and testified as follows:

--

1 DIRECT EXAMINATION

2 QUESTIONS BY JIM KISER:

3 Q. Ms. Greene, if you could state your name for the Board,
4 again, who you're employed by and in what capacity?

5 A. My name is Lynette Greene and I'm a senior land
6 representative for Columbia Natural Resources.

7 Q. And you're familiar with the application we filed seeking to
8 establish a drilling unit and seeking a pooling order for CNR well number 25407,
9 which was dated August 20, 2004?

10 A. Yes.

11 Q. Does CNR own drilling rights in the unit involved here?

12 A. Yes.

13 Q. And prior to filing the application, were efforts made to
14 contact each of respondents and an attempt made to work in an agreement
15 regarding the development of the unit?

16 A. Yes.

17 Q. Now, at the time we filed the application 96.406070% of the
18 unit was under lease to CNR, and that includes both current leases and interest
19 leased under the 1948 lease, correct?

20 A. That's correct.

21 Q. Okay. And at the time of the filing application that left
22 unleased 3.593930% unleased?

23 A. That's correct.

24 Q. And subsequent to filing the application, you all have

--

1 continued to attempt to get voluntary leases from the respondents listed at Exhibit
2 B?

3 A. Yes.

4 Q. Correct?

5 A. Yes.

6 Q. Okay. Can you point out for the Board what additional
7 leases you picked up? I believe they're all in Tract 4.

8 A. Yes. The William A. Blakemore, Trustee, is leased now,
9 the John A. Blakemore, Jr., Trustee, Sarah B. Drummond, Trustee, Mary B.
10 Johnson, Trustee, Martha B. McCreary, Trustee, Wachovia Bank, Trustee for the
11 Francis Bell Blakemore Trust is leased.

12 Q. Okay. So after adding those additional leases, the
13 percentage within the unit remains unleased at this time is 1.796965?

14 A. That's correct.

15 Q. Okay. Then if we look at the bottom of Exhibit B to
16 alleviate any confusion, we also see an asterisk which says...which is beside
17 several of the interest owners in Tract 4, which are the interest owners in the 1948
18 lease, and it says, "Asterisk equals leased being force pooled to allow for
19 unitization." And that percentage is 7.068.06...7.068063, is that correct?

20 A. That's correct.

21 Q. Okay.

22 BENNY WAMPLER: Explain that further. Explain what your intent
23 there is---.

24 JIM KISER: Well that---.

--

1 BENNY WAMPLER: ---for unitization in particular.

2 JIM KISER: That particular lease does not...in light of the old
3 “vintage leases” are, for instance, the Bull Creek lease that we force pooled
4 before this Board for these purposes probably around a year ago, does not
5 contain any clause that allows for the tracts or tract in that lease to be pooled or
6 unitized with any other tracts for production purposes. Another change in this
7 exhibit, you don’t see an asterisk on Hugh P. Cline anymore because he did sign
8 a modification allowing us to pool his interest. He’s another one of the
9 successors in the...to somebody’s interest in the 1948 lease. We’ve attempted to
10 get modifications from all these folks and are still attempting to get them---.

11 LYNETTE GREENE: Yes.

12 JIM KISER: ---to modify the lease to allow for pooling. So, again,
13 we are doing two different things here. We’re pooling 1.7, some percent that’s
14 still unleased, which is the Buchanan and White heirs, which we are still working
15 on leases there; and then we’re pooling to allow for unitization on these interests
16 in the old lease that don’t contain a pooling clause, which we have done
17 previously before this Board.

18 BENNY WAMPLER: Are any of these parties, and you may not
19 know this in the lawsuit contending that there are other parties not...not
20 previously identified?

21 JIM KISER: Ask me that again.

22 BENNY WAMPLER: Are...as part of the lawsuit, is there...has there
23 been any indication that there are parties that haven’t been identified?

24 JIM KISER: I don’t think so. And I’m confident that in...for this

--

1 particular unit under Tract 4, we do have everybody noticed that has an interest.
2 And as far as whether or not they've got all the parties before the Court in that
3 lawsuit, I really don't know.

4 BENNY WAMPLER: Well, I was keying of...he says in his letter to
5 the Board "Several other people shown in Exhibit B to your notice are also
6 parties to the lease involved in the litigation."

7 JIM KISER: Right. And they're all in there. All of them except the
8 Marjorie Coleman is...are in our Exhibit B and have been notified. If you'll---

9 BENNY WAMPLER: Yeah, I saw that.

10 JIM KISER: Okay.

11 BENNY WAMPLER: I know...I mean, you've already stated that.
12 But I guess the way he worded that, it just caused me to wonder, and that's the
13 reason I asked the question about the escrowing, you know, if there's doubt that
14 there are other parties out there. I mean, I don't know. But you're confident
15 there's not?

16 JIM KISER: (Indicates in the affirmative.)

17 BENNY WAMPLER: Okay. That's what I wanted to get...get clear.
18 You nodded your head, did you say yes?

19 JIM KISER: Yes, I'm confident that there's not.

20 PEGGY BARBER: On the first page at the very bottom, why would
21 you have the Bolling-Treadway Sheffield Trust and John Tollman Sheffield Trust
22 same percentages, same gross acreage unit. Are they the same people? I
23 mean, is it just representative of E. B. Steel?

24 JIM KISER: No, they just own...they're brothers and their interest,

--

1 again, came through Jessie May Pobst Estate, her Will, and they each got an
2 equal interest...undivided interest in that tract.

3 BENNY WAMPLER: Other questions?

4 (No audible response)

5 BENNY WAMPLER: You may continue.

6 JIM KISER: All right.

7 Q. We have set out the additional leases that you picked up?

8 A. Yes.

9 Q. And all are existing unleased parties are set out and
10 revised in Exhibit B-3, is that correct?

11 A. That's correct.

12 Q. And, in your professional opinion, was due diligence
13 exercised to locate each of the respondents named herein?

14 A. Yes.

15 Q. And are the addresses set out in the revised Exhibit B to
16 the application the last known addresses for the respondents?

17 A. Yes.

18 Q. And are you requesting this Board to force pool both all
19 unleased interest listed at Exhibit B-3 and those interests in Tract 4, who are
20 asterisked, and who are asking to pool in order to allow for pooling in unitization?

21 A. Yes.

22 Q. And are you familiar, again, with the fair market value of
23 drilling rights in the unit herein and the surrounding area?

24 A. Yes.

--

1 Q. And could you advise the Board as to what those are?

2 A. Five dollar bonus for a five year term at a one-eighth
3 royalty.

4 Q. And, in your opinion, do the terms you've just testified to
5 represent the fair market value of and fair and reasonable compensation to be
6 paid for drilling rights within this unit?

7 A. Yes.

8 JIM KISER: And, Mr. Chairman, again, I'd ask that the testimony
9 regarding the statutory election options and time frames in which to make those
10 and consequences thereof that was previously taken in VGOB Docket Number
11 04-0817-1327-01 which was for CNR well Number 24540 be incorporated for
12 purposes of this hearing.

13 BENNY WAMPLER: That will be incorporated.

14 Q. And who should be named operator under the forced
15 pooling order?

16 A. Columbia Natural Resources, LLC.

17 Q. And is it at least right now our position at the Board does
18 not need to establish an escrow an account for the purposes of this unit?

19 A. Yes.

20 Q. Nothing further of this witness at this time, Mr. Chairman.

21 BENNY WAMPLER: Questions from members of the Board of this
22 witness?

23 BILL HARRIS: Mr. Chairman?

24 BENNY WAMPLER: Mr. Harris?

^^

1 BILL HARRIS: Let me ask about again the leased with the
2 asterisks. Suppose...now what we're saying is that that the lease that started in
3 '48 and was extended in '78 that is in question here that...well that they are
4 questioning, I assume from reading this that...is that normally a ten year lease? It
5 says within the ten year period...none...I'm again quoting from Mr. Sheffield's
6 letter, "None of the parties mentioned in paragraph one were paid royalty within
7 the ten year term. Therefore the lease may have terminated by its own terms."
8 Are we'd assume that there is a ten year lease then since nothing happened that
9 it's just null and void, is that what they were saying or...that's actually only part of
10 the question, but---?

11 JIM KISER: No, again, the lawsuit has to do with who should be
12 paid...okay, you've got a 2,300 acre lease. It's made up of 21 different tracts.
13 Some of them are over here, this is a big map, a quad map. Some of them are
14 over here, some of them are over here, some of them are over here. Their
15 position is that it's...there's an entireties clause and it's community leased so that
16 no matter where...which tract the well is drilled on, even if it's drilled over here,
17 that these people who own an interest in this tract over here should get part of
18 the royalty. It's CNR's position, and I think, you know, we don't need to argue the
19 lawsuit but the correct position is it's not that the clause in that lease is not a valid
20 entireties clause and that the royalty should be non-apportioned. That is they
21 should be paid to the folks who own the interest in the tract or tracts that the well
22 is actually on, okay? So that would probably be why...that would probably be
23 why his assertion is that these parties did not...haven't received any royalties.
24 The lease has not been terminated either judicially or between the parties. It has

1 not been surrendered. It would be our position that it's still in full force and effect.

2 BILL HARRIS: Well, actually I have just a couple of questions.

3 One is, is the lease with CNR or with---?

4 JIM KISER: Well it's with a predecessor interest. It's been

5 assigned---.

6 BILL HARRIS: Okay. See it wasn't stated who the lease was with.

7 JIM KISER: I think it was with United Fuel, wasn't it?

8 LYNETTE GREENE: I have it here. Uh-huh.

9 JIM KISER: Yeah. United Fuel and Gas Company, which is a

10 predecessor interest. It has been assigned on down through the years.

11 BILL HARRIS: Okay. So the assignment then would mean that it's

12 still---?

13 LYNETTE GREENE: Uh-huh.

14 JIM KISER: Yeah.

15 BILL HARRIS: ---I don't know the legal term---?

16 JIM KISER: The current lessee...the current lessee would be CNR.

17 BILL HARRIS: Okay. Okay. Now, the other question is

18 suppose...see we've marked these...you've marked these as leased with the

19 asterisk. And I'm trying to think of a scenario that would happen that that

20 lease...suppose that lease is null and void because of some...whatever reason.

21 JIM KISER: Then they would be unleased.

22 BILL HARRIS: Then they'd be unleased. What

23 if...well---.

24 DENNIS GARBIS: Then it's pooled.

1 JIM KISER: Then we'd be pooling them as unleased.

2 DENNIS GARBIS: Yeah.

3 LYNETTE GREENE: But there are three producing wells.

4 JIM KISER: Yeah, there are three producing wells on that 2300 acre
5 lease. It's just a question of who gets paid because of the...you know, it would be
6 different if it was just one big contiguous tract but it's not and it's a lease
7 interpretation issue. And, again, remember they're not objecting to us pooling
8 them because they don't have a pooling clause. That's not their objection. Their
9 objection is there's this lawsuit out there and we'd kind of like to get it all cleared
10 up before we go forward.

11 BILL HARRIS: Well, what will that change if we---?

12 JIM KISER: It won't change anything.

13 BILL HARRIS: As far as the Board is concerned, if you'd---.

14 JIM KISER: Well as far as...in other words, let's say they win and
15 for some reason that portion of the lease is judicially surrendered because they
16 haven't paid the royalties properly or whatever, then we'd pool them...they'd be
17 pooled as unleased.

18 BILL HARRIS: I guess I'm just asking about the language---.

19 JIM KISER: And, again, it's, you know, 7% percent of the unit
20 versus 93% of the unit.

21 BILL HARRIS: Yeah. Yeah. I guess, I was just asking about the
22 language even though leased with an asterisk it's still...I guess technically they
23 are---.

24 JIM KISER: My guess is that Mr. Sheffield's incentive here is that

1 maybe it makes it easier for him to clear this up if we don't go forward. But, I
2 mean, again, I don't understand that because they're...nobody involved in that
3 7% of the unit is going to be prejudiced by this pooling order being granted and
4 us drilling the well and internally escrowing those proceeds attributed to that 7%
5 until they get either a judicial adjudication or some sort of adjudication or they get
6 together and stipulate as to how they want that royalty to be paid, which I think is
7 what he's trying to do rather than go through his lawyer, whoever that might be at
8 this point.

9 BILL HARRIS: Thank you.

10 BENNY WAMPLER: Other questions from members of the Board?

11 (No audible response.)

12 BENNY WAMPLER: Go ahead.

13 ROBERT L. KEENON

14 DIRECT EXAMINATION

15 QUESTIONS BY MR. KISER:

16 Q. Mr. Keenon, do your responsibility includes this land
17 involved in this unit and the surrounding area?

18 A. They do.

19 Q. And you're familiar with the plan of exploration?

20 A. Yes.

21 Q. And what's the total depth of this proposed well?

22 A. I submitted it to be 5686 feet.

23 Q. And are you requesting that the force pooling cover
24 conventional gas reserves including designated formations and any other

--

1 formations excluding coal formations, which may be between those formations,
2 from surface to total depth drilled?

3 A. Yes.

4 Q. And the estimated reserves for this unit?

5 A. 415 million standard cubic feet.

6 Q. Are you familiar with the well costs for this well?

7 A. Yes.

8 Q. And the AFE was...an AFE was reviewed, signed and
9 submitted to the Board as Exhibit C?

10 A. Yes.

11 Q. And, in your opinion, does it represent a reasonable
12 estimate of the well costs?

13 A. Yes.

14 Q. And could you state for the Board both the dry hole cost
15 and completed well costs for this well?

16 A. Dry hole costs are \$203,781 and the completed well costs,
17 including the pipeline, are anticipated to be \$405,657.

18 Q. And do these costs anticipate a multiple completion?

19 A. Yes.

20 Q. Does your AFE include a reasonable charge for
21 supervision?

22 A. Yes.

23 Q. And, in your professional opinion, would the granting of
24 this application be in the best interest of conservation, the prevention of waste

--

1 and the protection of correlative rights?

2 A. Yes.

3 JIM KISER: Nothing further of this witness at this time, Mr.

4 Chairman.

5 BENNY WAMPLER: Questions from members of the Board?

6 BILL HARRIS: If I would---.

7 BENNY WAMPLER: Mr. Harris.

8 BILL HARRIS: Let me just comment about the costs to drill. I know

9 we're looking at 5600 feet, but looks like these costs have just taken a quantum

10 leap here recently.

11 ROBERT L. KEENON: They have.

12 BILL HARRIS: What is going on if we might ask?

13 ROBERT L. KEENON: Well, tubular prices since March have

14 basically doubled.

15 BILL HARRIS: Tubular?

16 JIM KISER: Tubular prices, your casing strings, your 7", 9 and

17 5/8...we're looking at almost 100% increase on those costs.

18 BILL HARRIS: Now, those are a different company or this---?

19 ROBERT L. KEENON: No, sir, this is the same company.

20 BILL HARRIS: I mean, you'll purchase---?

21 DENNIS GARBIS: It's the price of steel.

22 ROBERT L. KEENON: It's supply and demand. It's China picking

23 up all the scrap metal that they can---.

24 BILL HARRIS: That's right. Yeah.

1 ROBERT L. KEENON: --and an additional surplus. I believe there
2 are only three tubular companies left in the U.S. I mean, there has just been...it's
3 a supply and demand situation. That is really the biggest increase. The drilling
4 costs, location costs will vary depending upon what we actually encounter from
5 well to well. But everything else is pretty much the same. The real increase or
6 the driving to this has been the increase of the tubular prices.

7 BILL HARRIS: Thank you.

8 JIM KISER: I think you'll probably notice that across the board with
9 all the operators.

10 BENNY WAMPLER: Other questions from members of the Board?

11 MASON BRENT: Mr. Chairman.

12 BENNY WAMPLER: Mr. Brent.

13 MASON BRENT: The AFE I have says page one of two. I only
14 have one page.

15 ROBERT L. KEENON: There's only one page. I'm not sure what
16 happened to this. It is just page one of one. That's either a typo or just a glitch
17 somewhere. The boundary was a little bit longer on the printout than what should
18 have fit on one page.

19 BENNY WAMPLER: Other questions?

20 (No audible response)

21 BENNY WAMPLER: Do you have anything further?

22 JIM KISER: Mr. Chairman, we ask that the application be approved
23 as submitted with the statement on the record that the 7.06 or .09, whatever the
24 percentage is that's represented in Tract 4 of Mr. Sheffield and those interests,

--

1 would be internally escrowed in a escrow...in an interest bearing account until
2 such time as we receive a court order, an agreed settlement, or a recordable
3 document that stipulates as to a division of interest among those parties.

4 BENNY WAMPLER: Would that internal escrow have accrued
5 interest?

6 JIM KISER: Yes. Interest bearing account.

7 BENNY WAMPLER: Okay. Is there a motion?

8 DENNIS GARBIS: Mr. Chairman, I make a motion to approve.

9 BENNY WAMPLER: Motion to approve.

10 PEGGY BARBER: Second.

11 BENNY WAMPLER: Second. Any further discussion?

12 (No audible response)

13 BENNY WAMPLER: All in favor, signify by saying yes.

14 (All members signify by saying yes)

15 BENNY WAMPLER: Opposed say no.

16 (No audible response)

17 BENNY WAMPLER: You have approval. Thank you. Are you also
18 doing Equitable? Do you have permission to do that before too? Is the Board
19 okay to continue? Does anybody need a break?

20 (No audible response)

21 JIM KISER: Are we breaking?

22 BENNY WAMPLER: No. We're going. The next item on the
23 agenda...is it number 20? Is that...?

24 (No audible response.)

--

1 BENNY WAMPLER: A petition from Equitable production company
2 for repooling a conventional gas unit V-502025, docket number VGOB-04-0420-
3 1284-01. We'd ask the parties that wish to address the Board in this matter to
4 come forward at this time.

5 JIM KISER: Mr. Chairman, Jim Kiser on behalf of Equitable
6 Production Company. Witness in this matter will be a Mr. Don Hall. He's
7 everybody's favorite, right?

8 (Don Hall passes out exhibits.)

9 JIM KISER: I think Mr. Hall has handed out a revised set of
10 exhibits. Let's get him sworn in.

11 (Don Hall is duly sworn.)

12 BENNY WAMPLER: The record will show there are no others. You
13 may proceed.

14 JIM KISER: Repooling may be, I guess, a little bit of a mess
15 now...we're kind of modifying our previous pooling that we did on this well that I
16 know our new Board member wasn't present, but the rest of you I'm pretty sure
17 can remember this one. But rather than go through all the testimony again, I
18 would like to just have Mr. Hall explain what we've modified with our application
19 and these revised exhibits.

20 BENNY WAMPLER: That's fine. If we need more we'll ask.

21 JIM KISER: Okay.

22 DON HALL: If you'll turn to the plat in your application, if everyone
23 will to turn to that, I can explain that, I believe. In the original force pooling, Tract
24 20 was shown as being what we're showing now as Tract 20 and 26. After

--

1 further title examination, it was determined that portion of 20 that we now call 20
2 was an overlap situation with ACIN. We had several overlaps in this already, but
3 we discovered that tract was also an overlap. So, what we're...what...or is that
4 portion of that tract was an overlap?

5 BILL HARRIS: Excuse me just a second. In overlap you mean?

6 DON HALL: It means that titles from two different people overlap,
7 the description of their properties.

8 BILL HARRIS: Literally, there's an overlap?

9 DON HALL: Yeah, there's an overlap. Right.

10 BILL HARRIS: Okay. Thank you.

11 DON HALL: But that portion of Tract 20 overlapped with a title with
12 ACIN. So, therefore, we're back here to escrow that portion of 20 that is now an
13 overlap. And once we created that new tract where the overlap area is, we had
14 to create a second tract or another tract which is now 26, concludes the
15 remainder of 20. Hopefully, I'm explaining this well enough. What was left of the
16 original 20 is now 26.

17 JIM KISER: If you look...maybe one way to look at it is, that the
18 dotted line that's between 20 and 26---

19 DON HALL: Right.

20 JIM KISER: ---wasn't there before.

21 DON HALL: Right, yeah.

22 BENNY WAMPLER: Yeah, we understand that.

23 JIM KISER: Okay.

24 BENNY WAMPLER: I'm just trying to make sure the record is clear

--

1 on what's going on here. I understand, I think, what you're saying.

2 MASON BRENT: I'm not sure I do. 26 overlaps with whom?

3 DON HALL: No, 26 doesn't overlap with anybody.

4 MASON BRENT: Okay.

5 BENNY WAMPLER: Originally, what's now 26 was all 20.

6 MASON BRENT: Right. That part I understand.

7 DON HALL: Right. And we've determined that...that there's an

8 overlap existing with 20...with a portion that we now call 20. So there's two

9 owners there instead of one---

10 JIM KISER: Yeah, we didn't have---

11 DON HALL: ---is basically what it amounts to.

12 JIM KISER: We didn't have it represented right.

13 DON HALL: We only showed it as one owner before and now we're

14 showing it as two owners. But there's only a portion of 20 that was overlapped.

15 So that...we had to create a new 26 to take up the portion of that...that was left.

16 And basically the reason I gave you a new exhibit was when we redid the exhibit

17 for this repooling, or whatever you want to call it, the percentage for 26

18 was...when 26 was split from 20, the percentage was split in Exhibit B on our

19 exhibits. Exhibit 20 was divided between 20 and 26, but they wasn't carried over

20 into B-3. So, I'm just correcting B-3 with the new exhibits.

21 JIM KISER: And we noticed all parties who were either new or---

22 DON HALL: Affected.

23 JIM KISER: ---interest affected at all by this title discovery.

24 MASON BRENT: Where on...where on here is the...would the

1 overlap be in 20?

2 BENNY WAMPLER: We've got the same question.

3 DON HALL: 20...well, actually all of...all of the line---.

4 MASON BRENT: All of this area?

5 DON HALL: Do you see where 18 and 19 are?

6 MASON BRENT: Uh-huh.

7 DON HALL: We have an overlapped of 18 and 19 and it also

8 included 20...of that portion of 20. So, it's overlapped with 18...there's...there's a

9 three-way overlap on 18, a two-way overlap on 19 and a two-way overlap on 20.

10 And that whole section south of that longline there is what was overlapped.

11 There's three different people claimed.

12 BENNY WAMPLER: And you've got 26 in two different places there

13 that---.

14 DON HALL: Well that's...the owner of 26 was...if you look at the

15 original plat we had 20 over there where the other smaller 26 is.

16 BENNY WAMPLER: Okay.

17 DON HALL: Those same people own that and it's the same lease,

18 but it's not contiguous with...with that tract. So we call it Tract 26 since it's the

19 same lease.

20 BILL HARRIS: Now, have we...how do we normally... well, I guess

21 this is a question for us, but how did we normally designate a tract. Is it

22 ownership or is it deeded property or...I mean, how do we...well, I guess that's

23 saying the same thing but---?

24 BENNY WAMPLER: It's identifying all parties that have an interest

1 within that particular tract is what they're doing.

2 BILL HARRIS: So, if it's the same---?

3 DON HALL: In this case there's two or three parties that---.

4 BENNY WAMPLER: And they're saying here---.

5 BILL HARRIS: On different---.

6 BENNY WAMPLER: ---just like you have multiple layered

7 ownership---.

8 BILL HARRIS: Well, that---.

9 BENNY WAMPLER: You own it and I own it---.

10 BILL HARRIS: Well, see that---.

11 BENNY WAMPLER: ---the same piece of property, right?

12 DON HALL: Yeah.

13 BILL HARRIS: Well...and that's---?

14 DON HALL: And that's why we've escrowed the...these to begin

15 with because---.

16 JIM KISER: Conflicting claims.

17 DON HALL: ---because we have conflicting claim. That's not really

18 uncommon to have overlaps.

19 BILL HARRIS: Well, see that...it...that was a new term to me.

20 Maybe I've heard it before, but I just---.

21 DON HALL: No, it's not.

22 BILL HARRIS: And I thought that was not good---.

23 DON HALL: Another term was interlocked. Some people call it

24 interlocked and some people call it overlapped. But that's basically...we're just

1 basically trying to correct our escrow and correct the overlap situations so that
2 we can have the right people in escrow.

3 MASON BRENT: How did this come about? What did you find
4 since the last hearing that has clarified this morning?

5 DON HALL: I guess we have some titles that came in---.

6 MASON BRENT: Further title?

7 DON HALL: Further title that indicated that there was...the
8 description of this property also covered that that initially we had to take it
9 (inaudible).

10 BENNY WAMPLER: As an example, you've added four new parties
11 to Tract 26...I'm sorry, you've added six new parties to Tract 26? And then I
12 have a question when you concur with that.

13 DON HALL: Which parties are you referring to?

14 BENNY WAMPLER: Christy Lynn Mullins, Jessica Ann Mullins,
15 Edith Charlene Mullins, Carl G-I-R-O-U-A-R-D, Louzella Yates.

16 DON HALL: And they've been notified.

17 BENNY WAMPLER: I'm sorry?

18 DON HALL: That's some additional people we discovered.

19 JIM KISER: You're right.

20 BENNY WAMPLER: But I mean they've been added since that---?

21 DON HALL: Right.

22 BENNY WAMPLER: ---since the original pooling, right?

23 DON HALL: Yeah, I had forgotten about that.

24 BENNY WAMPLER: That's okay. I'm just getting that...a kind of

--

1 clarification here. Now, when I look at 26 back on your original plat map, you're
2 finding...I'm going to show you 26 here and here, those parties...those same
3 parties have been added are applicable to both of these---?

4 DON HALL: Right.

5 BENNY WAMPLER: Not just this one---?

6 DON HALL: Right, yeah.

7 BENNY WAMPLER: Okay. All right.

8 JIM KISER: And all that interests is represented in those totals?

9 DON HALL: Right.

10 BENNY WAMPLER: Other questions from members of the Board?

11 (No audible response)

12 BENNY WAMPLER: Do you have anything further?

13 JIM KISER: Mr. Chairman, we'd ask that the application be

14 approved as submitted with the revised set of exhibits that were passed out this
15 morning.

16 BENNY WAMPLER: Is there a motion?

17 DENNIS GARBIS: Mr. Chairman, I move to approve.

18 JIM McINTYRE: Second.

19 BENNY WAMPLER: Motion and second. Any further discussion?

20 (No audible response)

21 BENNY WAMPLER: All in favor, signify by saying yes.

22 (All member signify by saying yes.)

23 BENNY WAMPLER: Opposed, say no.

24 (No audible response)

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1 BENNY WAMPLER: You have approval. The next item on the
2 agenda is a petition from Equitable Production Company for a well location
3 exception for proposed well P-550406, docket number VGOB-04-0921-1335.
4 We'd ask the parties that wish to address the Board in this matter to come
5 forward at this time.

6 JIM KISER: Again, Mr. Chairman, I'm Jim Kiser on behalf of
7 Equitable Production Company. Again, our witness in this matter will be Mr. Don
8 Hall.

9 BENNY WAMPLER: This is number 21 on the Board's agenda.
10 The record will show there are no others. You may proceed.

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DON HALL

DIRECT EXAMINATION

QUESTIONS BY JIM KISER:

Q. Mr. Hall, would you again state your name for the Board, who you're employed by and in what capacity?

A. My name is Don Hall. I'm employed by Equitable Production Company as district land.

Q. And your responsibilities include the land involved in this unit and in the surrounding area?

A. They do.

Q. Are you familiar with the application we filed in seeking a location exception for well P-550406?

A. Yes.

Q. And have all interested parties been notified as required by Section 4B of the Virginia Gas and Oil Board Regulations?

A. They have.

Q. Would you indicate for the Board the ownership of the oil and gas underlying the unit for well P-550406?

A. Pine Mountain Oil and Gas owns 97.44% and Darrell and Joyce Mullins own 2.56%.

Q. Now, the location that we're actually seeking an exception from is a proposed location, is that correct?

A. Well, it's applied for.

Q. It's applied for, yeah, right.

1 A. Applied for.

2 Q. And...so we will have the right to operate that reciprocal
3 well, right?

4 A. Right.

5 Q. And there's no correlative rights issues?

6 A. No.

7 Q. We're seeking an exception of 84.38 feet, is that correct?

8 A. That's correct.

9 Q. And can you explain in conjunction with the plat, why
10 we're seeking this?

11 A. Both these wells were applied for at the same time and the
12 reason we are seeking an exception between the two, is that they're both located
13 in coal blocks in McClure 1 mine. The ACIN, Alpha, chose these locations to hit
14 these coal blocks. Those mines are currently not active. They have, supposedly,
15 future plans to operate there. So we...both those wells did fall on the coal block.

16 Q. Okay. And in the event the location exception were not
17 granted, would you project the estimated loss of reserves resulting in waste?

18 A. 275 million cubic feet.

19 Q. And what's the total depth of this proposed well?

20 A. 5615 feet.

21 Q. And are we requesting that this location exception cover
22 conventional gas reserves to include designated formations from the surface to
23 the total depth drilled?

24 A. Yes.

1 Q. And, in your professional opinion, would the granting of
2 this location exception be in the best interest to preventing waste, protecting
3 correlative rights, accommodating the coal estate, and maximizing the recovery
4 of gas reserves underlying the unit?

5 A. Yes.

6 JIM KISER: No further questions at this time, Mr. Chairman.

7 BENNY WAMPLER: Any other questions from members of the
8 Board?

9 (No audible response)

10 BENNY WAMPLER: Did you offer them a location that doesn't
11 require an exception?

12 DON HALL: Yes. We tried to put it in a legal location but it
13 didn't...it fell in the workings and so forth as...as...they wouldn't be...all of our
14 wells have to be approved by the coal group and they wouldn't approve it
15 anywhere except here.

16 BENNY WAMPLER: Any other questions from members of the
17 Board?

18 (No audible response)

19 BENNY WAMPLER: DO you have anything further?

20 JIM KISER: We'd ask that the application be approved as
21 submitted, Mr. Chairman.

22 BENNY WAMPLER: Is there a motion?

23 JIM McINTYRE: Motion to approve.

24 BILL HARRIS: Second.

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1 BENNY WAMPLER: Motion and second. Any further discussion?
2 (No audible response)
3 BENNY WAMPLER: All in favor, signify by saying yes.
4 (All members signify by saying yes.)
5 BENNY WAMPLER: Opposed, say no.
6 (No audible response)
7 BENNY WAMPLER: You have approval.
8 BOB WILSON: Mr. Chairman.
9 BENNY WAMPLER: Mr. Wilson.
10 BOB WILSON: Before we leave the location exception, in response
11 to some of my own means of making preparations for hearings and such and
12 some of the comments that I have gotten from Board members, it would be very
13 nice if you folks would include a little more description in your application as to
14 why you're requesting location exceptions, such as if it's topographic means
15 include that map, if it's coal block include a paragraph or something---.
16 JIM KISER: Okay.
17 BOB WILSON: ---I mean, because basically what we're getting at is
18 kind of generic and I have no way of knowing what the basis for the request is.
19 JIM KISER: Prior to the testimony, that's fine.
20 BOB WILSON: I believe the regulations actually specifies that
21 you're supposed to have something in there showing what it is. So, I would...I
22 would appreciate that, again, just for my assistance if you could do that.
23 BENNY WAMPLER: Okay. The next item on the agenda is a
24 petition for Equitable Production Company for pooling of a coalbed methane unit

1 VC-535874, docket number VGOB-04-09-21-1336. This is Board's agenda item
2 22. We'd ask the parties that wish to address the Board in this matter to come
3 forward at this time.

4 JIM KISER: Mr. Chairman and Board members, Jim Kiser and Don
5 Hall, again, on behalf of Equitable Production Company.

6 BENNY WAMPLER: The record will show there are no others. You
7 may proceed.

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DON HALL

DIRECT EXAMINATION

QUESTIONS BY JIM KISER:

Q. Mr. Hall, do your responsibilities with Equitable include the land involved here and in the surrounding area?

A. They do.

Q. And are you familiar with the application filed seeking a pooling order for EPC well number VC-535874, which is dated August 20, 2004?

A. Yes.

Q. And is Equitable seeking to force pool the drilling rights underlying the unit as depicted at Exhibit A, that being applied to the application?

A. Yes, we are.

Q. Okay. And this particular well is in the Nora Coalbed Gas field?

A. Yes.

Q. And does Equitable own drilling rights in the unit involved here?

A. We do.

Q. And what is the...and now prior to filing the application, did...were efforts made to contact each of respondents within the unit and an attempt made to obtain a voluntary lease from each of them?

A. Yes.

Q. What is the interest at this time with Equitable within the gas estate in the unit?

1 A. We have 93.520744% leased.

2 Q. And the interest of Equitable under lease in the coal

3 estate?

4 A. We have 97.180744% of the coal estate leased.

5 Q. And are all the unleased parties set out in our Exhibit B-3?

6 A. They are.

7 Q. And are you familiar with the ownership of drilling rights of

8 parties that aren't leased to have pool underlying this unit?

9 A. Yes.

10 Q. And what percentage of the gas estate is unleased?

11 A. 6.49...6.479256%.

12 Q. And the interest of the coal estate that is unleased?

13 A. 2.819256%.

14 Q. Now, we don't have any unknown interest owners---?

15 A. No.

16 Q. ---within this unit, is that correct?

17 A. That's correct.

18 Q. And, in your professional opinion, was due diligence

19 exercised to locate each of respondents named herein?

20 A. Yes.

21 Q. And are their addresses set out in Exhibit B of the

22 application the last known addresses for the respondents?

23 A. They are.

24 Q. Now, are you familiar with...are we requesting the Board to

1 force pool all unleased interests listed in our Exhibit B-3?

2 A. Yes.

3 Q. And are you familiar with the fair market value of drilling
4 rights of the unit here and in the surrounding area?

5 A. Yes.

6 Q. Could you advise the Board as to what those are?

7 A. Five dollar bonus, five year term, and a one-eighth royalty.

8 Q. And, in your opinion, the terms you just testified to
9 represent the fair market value of and fair and reasonable compensation to be
10 paid for drilling rights within this unit?

11 A. They do.

12 Q. Now, as to those respondents who remain unleased and
13 listed in Exhibit B-3, do you agree that they be allowed the following statutory
14 options with respect to their ownership interest within the unit: one, participation;
15 two, a cash bonus of five dollars per net mineral acre plus a one-eighth of eight-
16 eighths royalty; three, in lieu of a cash bonus and one-eighth of eight- eighths
17 royalty share in operation of the well on a carried basis as a carried operator
18 under the following conditions: Such carried operator should be entitled to the
19 share production from the tracts pooled accruing to his interest exclusive of any
20 royalty or over riding royalty reserved in any leases, assignments thereof, or
21 agreements relating thereto of such tracts but only after the proceeds applicable
22 to his share equal A) 300% of share of such cost applicable to the interest of the
23 carried operator of a leased tract or portion thereof; or B) 200% of the share of
24 such costs applicable to the interest of the carried operator of an unleased tract

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1 or portion thereof?

2 A. Yes.

3 Q. Do you recommend the order provide that any elections by
4 respondents be in writing and sent to the applicant at Equitable Production
5 Company, 1710 Pennsylvania Avenue, P. O. Box 2347, Charleston, West
6 Virginia 25328, attention Melanie Freeman, regulatory?

7 A. Yes.

8 Q. And should this be the address for all communications
9 with the applicant concerning any force pooling order?

10 A. It should.

11 Q. Do you recommend that the order provide that if no written
12 election is promptly made by a respondent, then such respondent should be
13 deemed to have elected the cash option in lieu of participation?

14 A. Yes.

15 Q. Should unleased respondents be given 30 days from the
16 date of execution of the Board order in which to file their written election?

17 A. It should.

18 Q. If an unleased respondent elects to participate, should
19 they be given 45 days to pay for their proportioned share of well costs?

20 A. Yes.

21 Q. Does the applicant expect the party electing to participate
22 to pay in advance that parties share of completed well costs?

23 A. Yes.

24 Q. Should applicant be allowed 120 days following

--

1 recordation date of the Board order and, thereafter, annual on that date until
2 production is achieved to pay or tender any cash bonus becoming due under any
3 force pooling order?

4 A. Yes.

5 Q. Do you recommend that the order provide that if a
6 respondent elects to participate, but fails to pay their proportionate share of well
7 costs, then respondents election to participate should be treated as having been
8 withdrawn and void and respondent should be treated as if no initial election had
9 been filed under the order?

10 A. Yes.

11 Q. That is deemed to the lease?

12 A. Yes.

13 Q. Do you recommend that the order provide that where a
14 respondent elects to participate but defaults in regard to payment of their well
15 costs, then any sum becoming due under the order to them be paid within 60
16 days after the last date on which that respondent could have paid those well
17 costs?

18 A. Yes.

19 Q. Now, in this particular case, we do have an Exhibit E to
20 the application and we do have a conflicting claim in escrow for Tract 4 in the
21 unit, is that true?

22 A. That's correct.

23 Q. Okay. And who should be named operator under any
24 forced pooling order?

--

1 A. Equitable Production Company.

2 Q. And what is the total depth of the proposed well under the

3 plan of development?

4 A. 1704 feet.

5 Q. And the estimated reserves for the unit?

6 A. 500 million cubic feet.

7 Q. Now, has an AFE been reviewed, signed and submitted to

8 the Board as Exhibit C to the application?

9 A. It has.

10 Q. Does it say, in your opinion, represent a reasonable

11 estimate of well costs for this proposed well?

12 A. It does.

13 Q. And could you state both the dry hole costs and

14 completed well costs for this well?

15 A. Dry hole costs is \$105,166 and the completed well costs is

16 \$252,674.

17 Q. And do these costs anticipate a multiple completion?

18 A. They do.

19 Q. Does your AFE include a reasonable charge for

20 supervision?

21 A. Yes.

22 Q. And, in your professional opinion, would the granting of

23 this application be in the best interest of the conservation, the prevention of

24 waste, and the protection of correlative rights?

1 A. Yes.

2 JIM KISER: Nothing further of this witness at this time, Mr.

3 Chairman.

4 BENNY WAMPLER: Questions from members of the Board?

5 (No audible response)

6 BENNY WAMPLER: Do you have anything further?

7 JIM KISER: Mr. Chairman, we'd ask that the application be

8 approved as submitted.

9 BENNY WAMPLER: Is there a motion?

10 JIM McINTYRE: Motion to approve.

11 BENNY WAMPLER: Is there a second?

12 BILL HARRIS: I'll second.

13 BENNY WAMPLER: All in favor, signify by saying yes.

14 (All members signify by saying yes.)

15 BENNY WAMPLER: Opposed, say no.

16 (No audible response.)

17 BENNY WAMPLER: You have approval. The next item on the

18 agenda is petition from Equitable Production Company for pooling of coalbed

19 methane unit VC-536070, docket number VGOB-04-09-21-1337. We'd ask

20 parties that wish to address the Board in this matter to come forward at this time.

21 JIM KISER: Mr. Chairman, again, Jim Kiser and Don Hall on behalf

22 of Equitable Production Company.

23 BENNY WAMPLER: It's item 23 on the Board's agenda. The

24 record will show there are no others. You may proceed.

1 (Don Hall passes out revised exhibits.)

2

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DON HALL

4

DIRECT EXAMINATION

5 QUESTIONS BY JIM KISER:

6 Q. Mr. Hall, if you could state your name for the Board again,
7 who you're employed by and in what capacity?

8 A. My name is Don Hall. I'm employed by Equitable
9 Production Company as district landman.

10 Q. And do your responsibilities include the land involved here
11 and in the surrounding area?

12 A. It does.

13 Q. Are you familiar with the application we filed seeking a
14 pooling order for EPC well number VC-536070 dated August 20, 2004?

15 A. Yes.

16 Q. Is Equitable seeking to force pool the drilling rights
17 underlying the unit as depicted at Exhibit A to the application?

18 A. Yes.

19 Q. Is this well, again, in the Nora Coalbed Gas Field?

20 A. It is.

21 Q. Now, prior to filing the application, were efforts made to
22 contact each of respondents listed in Exhibit B in an attempt to work out a
23 voluntary lease agreement?

24 A. Yes.

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1 Q. What is the interest under lease to Equitable within the
2 gas estate in the unit?

3 A. We have 96.70672% leased.

4 Q. And the interest in the coal estate?

5 A. 100%.

6 Q. Are all the unleased parties set out in Exhibit B-3?

7 A. They are.

8 Q. Now, are you familiar with the unleased interest within the
9 unit?

10 A. Yes.

11 Q. What percentage of the gas estate remains unleased?

12 A. 3.29328%.

13 Q. Now, this particular unit does contain at least one
14 unknown interest, is that correct?

15 A. That's correct.

16 Q. Now, were reasonable and diligent efforts made and
17 sources checked to identify and locate any unknown heirs---?

18 A. Yes.

19 Q. ---including primary sources such as deed records,
20 probate records, assessor's records, treasurer's records, and secondary sources
21 such as telephone directories, city directories, family and friends?

22 A. Yes.

23 Q. In your professional opinion, was due diligence exercised
24 to locate each of respondents named in Exhibit B?

1 A. It was.

2 Q. And are the addresses set out in Exhibit B to the
3 application the last known address for the respondents?

4 A. Yes.

5 Q. Are you requesting this Board to force pool all unleased
6 interests listed at Exhibit B-3?

7 A. Yes.

8 Q. And are you familiar with the fair market value of drilling
9 rights in the unit here and in the surrounding area?

10 A. Yes.

11 Q. Could you advise the Board as to what those are?

12 A. A five dollar bonus with a five year term with a one-eighth
13 royalty.

14 Q. In your opinion, do the terms that you've just testified to
15 represent the fair market value of and fair and reasonable compensation to be
16 paid for drilling rights within this unit?

17 A. They do.

18 JIM KISER: Now, Mr. Chairman, at this time as to the statutory
19 options afforded the unleased parties and their time periods in which to make
20 those elections and the consequences thereof, that was just taken in VGOB
21 docket number 04-0921-1336, we'd ask that that testimony be incorporated for
22 purposes of this hearing.

23 BENNY WAMPLER: They'll be incorporated.

24 Q. Okay. In this particular instance, Mr. Hall, we do have

1 both unknown interest and conflicting claims to the coalbed methane. So the
2 Board does need to establish an escrow account in the manner as depicted at
3 Exhibit E to the application, is that correct?

4 A. That's correct.

5 Q. And who should be named operator under any force
6 pooling order?

7 A. Equitable Production Company.

8 Q. And what is the total depth of the well under the plan of
9 development?

10 A. 2321 feet.

11 Q. And the estimated reserves for this unit?

12 A. 275 million cubic feet.

13 Q. Now, are you familiar with and has an AFE been reviewed,
14 signed and submitted to the Board as Exhibit C to the application?

15 A. It has.

16 Q. In your opinion, does this AFE represent a reasonable
17 estimate of the well costs for this well?

18 A. Yes.

19 Q. Could you state for the Board both the dry hole costs and
20 the completed well costs for this well?

21 A. Dry hole cost is \$119,569. The completed well cost is
22 \$285,656.

23 Q. Do these cost anticipate a multiple completion?

24 A. They do.

--

1 Q. Does your AFE include a reasonable charge for
2 supervision?

3 A. Yes.

4 Q. And, in your professional opinion, would the granting of
5 this application be in the best interest of conservation, prevention of waste, and
6 protection of correlative rights?

7 A. Yes.

8 JIM KISER: Nothing further of this witness at this time, Mr.
9 Chairman.

10 BENNY WAMPLER: Who's signing this AFE?

11 DON HALL: Mike Butcher.

12 BENNY WAMPLER: His position is?

13 DON HALL: Drilling...drilling Superintendent.

14 BENNY WAMPLER: Questions from members of the Board of this
15 witness?

16 (No audible response.)

17 BENNY WAMPLER: Do you have anything further?

18 JIM KISER: Mr. Chairman, we'd ask that this application be
19 approved as submitted.

20 BENNY WAMPLER: Is there a motion?

21 JIM McINTYRE: Motion to approve.

22 BENNY WAMPLER: Is there a second?

23 DENNIS GARBIS: Second.

24 BENNY WAMPLER: Motion and second. Any further discussion?

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1 (No audible response.)

2 BENNY WAMPLER: All in favor, signify by saying yes.

3 (All members signify by saying yes.)

4 BENNY WAMPLER: Opposed, say no. You have approval. Thank

5 you. We'll take a---.

6 BOB WILSON: Mr. Chairman.

7 BENNY WAMPLER: Mr. Wilson.

8 BOB WILSON: Let me ask one question before we proceed,

9 please. This goes back to docket number 04-0420-1284-01. This was the

10 repooling of V-502025. That was originally pooled in May and there has been no

11 order been issued on that. It was actually held up because they found this

12 problem. Is it safe to assume that we can issue a single order for this rather than

13 consider this a repooling considering it---?

14 JIM KISER: Right.

15 BOB WILSON: --- (inaudible) to the original pooling---?

16 JIM KISER: Right.

17 BOB WILSON: ---and issue one order under the---?

18 BENNY WAMPLER: I think that would be the best way to go.

19 JIM KISER: I agree.

20 BENNY WAMPLER: It would be less confusing. Thank you, that's

21 a good point.

22 BOB WILSON: Thank you.

23 BENNY WAMPLER: We'll take a ten minute recess while the other

24 folks get set up.

1 (BREAK)

2 BENNY WAMPLER: We'll reconvene. The next item on the
3 agenda is a petition from CNX Gas Company, LLC for pooling of coalbed
4 methane unit AV-101, docket number VGOB-04-0921-1328. We'd ask the
5 parties that wish to address the Board in this matter to come forward at this time.

6 MARK SWARTZ: Mark Swartz and Leslie Arrington.

7 BENNY WAMPLER: The record will show there are no others. You
8 may proceed.

9 BILL HARRIS: What item is this?

10 BENNY WAMPLER: 13, I'm sorry. Board agenda item 13.

11 BILL HARRIS: Okay.

12 (Leslie K. Arrington passes out a document.)

13 BENNY WAMPLER: Do you want to go ahead and get sworn?

14 (Leslie K. Arrington is duly sworn.)

15

16 LESLIE K. ARRINGTON

17 DIRECT EXAMINATION

18 QUESTIONS BY MARK SWARTZ:

19 Q. You need to state your name for us.

20 A. Leslie K. Arrington.

21 Q. Who do you work for?

22 A. CNX Gas Company, LLC.

23 Q. Is CNX Gas Company, LLC the applicant with regard to
24 this application?

--

1 A. Yes.

2 Q. Is CNX Gas Company, LLC a Virginia General
3 Partnership?

4 A. Yes.

5 Q. Is it a wholly owned, indirect subsidiary of Consol Energy,
6 Inc.?

7 A. Yes, it is.

8 Q. Has CNX gone through the steps necessary to become
9 authorized to do business in Virginia?

10 A. Yes, it has.

11 Q. Who does this application seek to have appointed
12 designated operator?

13 A. CNX Gas.

14 Q. Has CNX Gas registered with the DMME and does it have
15 a blanket bond on file as required by law?

16 A. Yes, it does.

17 Q. Okay. What did you do to notify people interested in the
18 outcome today that there was going to be a hearing today?

19 A. We mailed by Certified mail, return receipt requested on
20 August 20, 2004; and we published in Bluefield Daily Telegraph on August 26,
21 2004.

22 Q. Do you want to add anybody as a respondent or dismiss
23 anybody as a respondent with regard to this particular application?

24 A. No, we do not.

1 Q. Okay. When you published, what did you publish?
2 A. We published the notice of hearing and an attached
3 location map.
4 Q. Okay. And what...have you filed proof of publication with
5 Mr. Wilson this morning, as well as evidence with regard to your mailing?
6 A. Yes, we have.
7 Q. If you would turn for a moment, Les, to the Exhibit A, page
8 2, and tell the Board what interests you've been able to acquire and what
9 interests remain outstanding that need to be pooled?
10 A. We have leased 100% of the coal owners' claim to
11 coalbed methane. We've leased 32.7824% of the oil and gas owners' claim to
12 coalbed methane. We're seeking to pool 67.2176% of the oil and gas owners'
13 claim to coalbed methane.
14 Q. Okay. And what...what would be the lease terms that you
15 have offered to the people that you have been able to acquire interest from?
16 A. Our standard lease for a coalbed methane is a dollar per
17 acre per year, five year paid up term with one-eighth production royalty.
18 Q. And this dollar per acre rental, does that cease when the
19 production royalty commences?
20 A. Yes, it does.
21 Q. Would you recommend those terms to the Board in the
22 event they would enter an order of pooling this unit with regard to folks who might
23 be deemed to have been leased under an order?
24 A. Yes, we would.

1 Q. This is a Nora unit, correct?

2 A. Yes, it is.

3 Q. How many acres?

4 A. 50.94.

5 Q. And the plan is to drill a one frac well in the window?

6 A. Yes.

7 Q. And...and, in fact, the map...the plat map shows the

8 location of that and shows that well and shows that it is indeed within the drilling

9 window?

10 A. Yes.

11 Q. What...what is the cost estimate with regard to this frac

12 well?

13 A. \$227,275.11 to a depth of approximately 2,492 feet, permit

14 Number 6360.

15 Q. Have you submitted an Exhibit E with regard to escrow?

16 A. Yes, we have.

17 Q. Okay. And what's the escrow requirement with regard to

18 this unit?

19 A. We're escrowing Tract 1-C, 1-D, 1-E, 1-F, 1-G, 1-H, 1-I,

20 and 1-J due to conflicts between the oil and gas and coal owners.

21 Q. Okay. And then there's an address unknown issue in

22 Tracts 1-H, 1-I, and 1-J, is that correct?

23 A. That's correct.

24 Q. Are there some folks in this unit that have entered into

1 royalty split agreements?

2 A. Yes, listed on Exhibit EE.

3 Q. And those pertain Tracts 1-A, 1-B, 1-H, 1-I, 1-J, at least in-
4 part?

5 A. That's correct.

6 Q. Okay. And are you requesting that in the event the Board
7 would enter an order of pooling this unit, that they authorize the operator to pay
8 the folks who have split agreements in accordance with the terms of their
9 agreement directly rather than escrowing their funds?

10 A. Yes, we do.

11 Q. Is it your opinion that the plan of development disclosed
12 by the application and the related Exhibits, which is to drill one frac well in this
13 Nora unit, is a reasonable plan to develop coalbed methane resources within and
14 under this unit?

15 A. Yes, it is.

16 Q. And is it your opinion that the...if you take the leases and
17 interests that you've acquired, that the operator has acquired, and you combine
18 those interests with a pooling order affecting the respondents that you've
19 identified, that those two things would protect the correlative rights of all owners
20 and claims?

21 A. Yes, it will.

22 MARK SWARTZ: That's all I have, Mr. Chairman.

23 BENNY WAMPLER: Questions from members of the Board?

24 (No audible response.)

--

1 BENNY WAMPLER: Now the hand-outs you gave us, Les, the one
2 you gave us...the cap sheet---

3 LESLIE K. ARRINGTON: Yes.

4 BENNY WAMPLER: ---that recaps everything and then you gave
5 us an Exhibit EE that pertains to another docket number that we are talking about
6 today. So to eliminate confusion of the Board members because several people
7 were looking through that.

8 BILL HARRIS: Tracts that aren't there.

9 ANITA DUTY: He told me we were going to do that one first, but he
10 didn't tell you that.

11 MARK SWARTZ: But he's not the Chairman so---.

12 ANITA DUTY: That's right.

13 MARK SWARTZ: Yeah. But they're not related. You're absolutely
14 right.

15 BENNY WAMPLER: I didn't interrupt you, you finished your
16 questioning, is that correct?

17 MARK SWARTZ: I am done.

18 BENNY WAMPLER: Is there questions from members of the
19 Board?

20 JIM McINTYRE: I have a question. 67% of the oil and gas
21 unleased, did I understand you to say it was a conflict between the coal owners
22 and the oil and gas owners?

23 LESLIE K. ARRINGTON: Yes, there is.

24 JIM McINTYRE: Will that be like a suit be involved in that to

--

1 determine who the owner of the gas is? Is that what we are talking about?

2 LESLIE K. ARRINGTON: It could be. I mean, you know, we...we

3 don't determine title. It's up to the---

4 JIM McINTYRE: Right.

5 LESLIE K. ARRINGTON: ---individual owners to work out their

6 conflict.

7 MARK SWARTZ: One of the problems is that it can be kind of deed

8 specific and it's hard to take that case and say it applies here or it does or does

9 not because that deed was not necessarily representative of other deeds.

10 JIM McINTYRE: Uh-huh. Okay.

11 BENNY WAMPLER: Other questions from members of the Board?

12 (No audible response.)

13 BENNY WAMPLER: Do you have anything further?

14 MARK SWARTZ: No, I do not.

15 BENNY WAMPLER: Is there a motion?

16 DENNIS GARBIS: Motion to approve.

17 BILL HARRIS: Second.

18 BENNY WAMPLER: Motion and second. Any further discussion?

19 (No audible response.)

20 BENNY WAMPLER: All in favor, signify by saying yes.

21 (All members signify by saying yes.)

22 BENNY WAMPLER: Opposed, say no.

23 (No audible response.)

24 BENNY WAMPLER: You have approval.

1 MARK SWARTZ: Is there any chance we could skip to 19 so that
2 we could use the Exhibit we gave you?

3 BENNY WAMPLER: Yes, sir. We can do that.

4 PEGGY BARBAR: So we can put it away?

5 BENNY WAMPLER: We'll call item 19. It's a petition from CNX
6 Gas Company, LLC for disbursement of funds from escrow and authorization for
7 direct payment of royalties on Tract 6-A, Unit BUN-1, docket number VGOB-91-
8 0716-0135-02. We'd ask the parties that wish to address the Board in this matter
9 to come forward at this time.

10 MARK SWARTZ: Mark Swartz and Anita Duty.

11 BENNY WAMPLER: The record will show there are no others. You
12 may proceed.

13 MARK SWARTZ: Anita, you're already under oath even though
14 under a different name, right.

15 ANITA DUTY: Yeah.

16 BENNY WAMPLER: Under Mark Swartz.

17 ANITA DUTY: Under Tester the last time.

18 MARK SWARTZ: Tester...Tester.

19 BENNY WAMPLER: I just know you said Mark Swartz...that you
20 were Mark Swartz and Anita Duty earlier. But I let you get by with it.

21 MARK SWARTZ: No problem.

22 BENNY WAMPLER: Go ahead.

23

24 ANITA DUTY

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DIRECT EXAMINATION

QUESTIONS BY MARK SWARTZ:

Q. We're here on a miscellaneous petition effecting the BUN-
1 unit, correct?

A. Yes.

Q. And what is it you hope we accomplish today?

A. Disbursement...we previously had a disbursement in 2000
and there was a tract that we missed so we are coming back to try to get that
other tract out of there.

Q. Okay. And when you were working on this miscellaneous
petition the application that was filed, were you working from home?

A. Yes.

Q. Okay. And somewhat distracted and so forth, perhaps?

A. Yes.

Q. Okay. When you returned to work did you discover that
there was perhaps a mistake?

A. Yes.

Q. Okay. Why won't you tell the Board and we'll straighten
that out.

A. The percentage that's listed on the miscellaneous petition
is incorrect. I didn't realize how many acres were being escrowed. So that
percentage is wrong. I can give you the new one.

Q. Okay. The percentage that is wrong is 40.2774, is the
wrong number, correct?

1 A. Right. Yes.

2 Q. And what would be the correct percentage?

3 A. 20.5623.

4 Q. Percent?

5 A. Percent.

6 Q. And that would apply to each of the parties identified

7 specifically Hugh MacRae Land Trust/Torch Operating Company and then

8 20.5623% of escrow to Consolidation Coal Company, correct?

9 A. Correct.

10 Q. Have you prepared an updated Exhibit EE that's been

11 passed out to the Board today?

12 A. Yes.

13 Q. Okay. And tell the Board what you've tried to do here?

14 A. Well, there's actually an E and an EE. So, what I did was

15 corrected the percent of escrow that way. It adds up to a 100%. It was incorrect

16 the first time.

17 Q. The last--.

18 A. The one that's attached to the miscellaneous petition.

19 Q. Okay. The last page in the packet of the Exhibits, if they

20 were all stapled together, is the Exhibit E, correct?

21 A. Yes.

22 Q. And then the disbursement exhibit that we're talking about

23 in terms of disbursement that you're seeking today is covered by Exhibit EE, is

24 that correct?

1 A. Yes.

2 Q. Okay. And the parties to the split agreement are who?

3 A. Hugh MacRae Land Trust and Torch Operating Company

4 and Consolidation Coal.

5 Q. Or Pocahontas Gas partnership as the case may be,

6 right?

7 A. Yeah, well it's Tract 6A.

8 Q. Okay. So we are only talking about 6A today, right?

9 A. Yes.

10 Q. Okay. Which would be at Page 205. And the parties

11 there are, in fact, Hugh MacRae and Consol?

12 A. Yes.

13 Q. And the tracts or the acres in Tract 6A are how many?

14 A. 59.24.

15 Q. And the percentage interest in unit, how did you calculate

16 that?

17 A. The total acres divided by the tract acres.

18 Q. Okay. And the...so that's where the 6.5440 came from?

19 A. Yes.

20 Q. And then did you also calculate the percentage of the

21 funds held at...in escrow that would be attributable to Tract 6-A?

22 A. Yes.

23 Q. And you reported that as what?

24 A. A total of 41.12461%.

1 Q. And if we divide that by 2, to account for the two people
2 that have the split agreement, that's how we arrive at the 20.5623% that we
3 started with today?

4 A. Yes.

5 Q. Okay. And what is it that you're requesting the Board
6 order allow you to do or allow the escrow agent to do?

7 A. To disburse that percentage of the account and then from
8 now on everything will be paid directly.

9 Q. To Hugh MacRae Land Trust and Consolidation Coal?

10 A. Yes.

11 Q. Okay. And that would...would that zero out this sub-
12 account 6-A?

13 A. Yes.

14 Q. So the only two people in Tract 6-A with claims are the
15 folks identified at Page 205 of your Exhibit EE?

16 A. Yes.

17 Q. And do these folks have a written agreement?

18 A. Yes.

19 Q. And this provides for an equal split as you have indicated?

20 A. Yes.

21 Q. That's all I have, Mr. Chairman.

22 BENNY WAMPLER: Questions from members of the Board? Mr.
23 Wilson.

24 BOB WILSON: Yes, sir. As I read your notification here, you have

--

1 notified Hugh MacRae Land Trust and Torch Operating Company but not
2 Consolidated Coal Company, is that...am I missing something here?

3 ANITA DUTY: Well, that would be like a hand deliver...I mean
4 that's...I just probably didn't put that on there but...because that's us.

5 BOB WILSON: That's you?

6 ANITA DUTY: Do you need me to---? That's not me. Because
7 normally I do put hand delivered or something on there to show that we
8 acknowledge it.

9 BOB WILSON: Is Torch Operating part of Hugh MacRae Land
10 Trust or...what's the relationship there?

11 ANITA DUTY: I think they're the royalty owner, is that right, Les?

12 LESLIE K. ARRINGTON: Yes, royalty owner.

13 BOB WILSON: In Tract 6-A only lists Hugh MacRae and
14 Consolidation Coal. That's what's a little bit confusing to me, those two. I would
15 have notified Torch.

16 LESLIE K. ARRINGTON: We can revise that exhibit to indicate
17 Torch. That's fine.

18 ANITA DUTY: To put Torch...you want me to put Torch on Exhibit
19 EE, as the royalty owner?

20 BOB WILSON: If it's...if it's---.

21 ANITA DUTY: They're not actually the owner, they're the ones that
22 own...I mean, they're...they get the royalties.

23 BOB WILSON: I guess my confusion is that you didn't name them,
24 but you did notify them. I'm just making sure that we're covered is all.

1 ANITA DUTY: Okay.

2 BOB WILSON: ---on this and whatever the Board feels comfortable
3 with on that.

4 BENNY WAMPLER: Well, I guess I'd go to Mr. Swartz and say are
5 they properly named here in the Exhibit EE?

6 MARK SWARTZ: My recollection is that it...the interest was owned
7 by Hugh MacRae Land Trust but there is some kind of past throw agreement to
8 Torch Operating and it would have...we should have appropriately named both of
9 them which is what we did in the application.

10 BENNY WAMPLER: Right. Then would you amend the EE
11 Exhibit?

12 MARK SWARTZ: So I would add Torch Operating to EE. Now I'm
13 not sure what their relationship is---.

14 BENNY WAMPLER: I understand.

15 MARK SWARTZ: ---but they're related and I don't think it's an
16 either or I think it's a both, Les,---.

17 BENNY WAMPLER: Okay.

18 MARK SWARTZ: ---to my recollection.

19 LESLIE K. ARRINGTON: I don't...I don't remember that part.

20 BENNY WAMPLER: So will...will you provide Mr. Wilson with
21 amended Exhibits as appropriate.

22 MARK SWARTZ: We'll do that.

23 BOB WILSON: And an amended notice from the file showing
24 delivery to Consolidation Coal Company since they are not CNX Gas Company.

--

1 They are officially a different company. Thank you.

2 ANITA DUTY: Okay.

3 BENNY WAMPLER: Anything further, Mr. Swartz?

4 MARK SWARTZ: No.

5 BENNY WAMPLER: Other questions from members of the Board?

6 (No audible response.)

7 BENNY WAMPLER: Is there a motion?

8 JIM McINTYRE: Motion to approve.

9 MASON BRENT: Second.

10 BENNY WAMPLER: Second. Any further discussion?

11 (No audible response.)

12 BENNY WAMPLER: All in favor, signify by saying yes.

13 (All members signify by saying yes.)

14 BENNY WAMPLER: Opposed say no.

15 (No audible response.)

16 BENNY WAMPLER: You have approval. Is it okay to go back to

17 Number 14 now?

18 MARK SWARTZ: That would be great, but I probably have some

19 favor to ask with that. Yeah, if you could also...if you could put 14 and 18

20 together because they're two Middle Ridge Units.

21 BENNY WAMPLER: All right. The next items on the agenda is

22 petition from CNX Gas Company, LLC for pooling of coalbed methane unit BA-

23 115, docket number VGOB-04-0921-1329 and the petition to pool unit BA-114,

24 docket number VGOB-03-1216-1243-01. We'd ask the parties that wish to

1 address the Court in these matters to come forward at this time. That's 14 and
2 18 from the Board's agenda.

3 MARK SWARTZ: Mark Swartz and Les Arrington.

4 BENNY WAMPLER: The record will show there are no others. You
5 may proceed.

6 MARK SWARTZ: Mr. Chairman, if I could incorporate the testimony
7 with regard to the applicant and the applicant's ability to do business and so forth
8 and the lease terms...the standard lease terms from the prior hearing into...into
9 these two pooling hearings, I'd appreciate it.

10 BENNY WAMPLER: That will be incorporated.

11 MARK SWARTZ: Thank you.

12

13 LESLIE K. ARRINGTON

14 DIRECT EXAMINATION

15 QUESTIONS BY MARK SWARTZ:

16 Q. Les, you're still under oath?

17 A. Yes.

18 Q. Who do you work for?

19 A. CNX Gas Company, LLC.

20 Q. And is CNX Gas Company, LLC the applicant with regard
21 to both BA-115 and BA-114?

22 A. Yes, it is.

23 Q. Okay. And who is it that the applicant is asking be
24 appointed the designated operator if an order is entered?

--

1 A. CNX Gas Company.

2 Q. These are both Middle Ridge I units, is that correct?

3 A. Yes, they are.

4 Q. How many acres in each of these units?

5 A. In each unit is 58.74.

6 Q. And the plan in...with regard to BA-115 is for one frac well

7 and this one happens to be outside the drilling window, correct?

8 A. That's correct, it is.

9 Q. And the plan in...with regard to BA-114 is one frac well

10 and that well is located in the window, is that correct?

11 A. Yes, correct.

12 Q. Okay. What did you do to notify the respondents in these

13 two units of the hearing today?

14 A. Yes. BA-114 and BA-115 we mailed by Certified Mail

15 return receipt requested on August 20, 2004. BA-115, we published in the

16 Bluefield Daily Telegraph on August 28, 2004. BA-114, we published in the

17 Bluefield Daily Telegraph on August 27, 2004.

18 Q. When you published, what did you publish?

19 A. We published the notice of hearing and attached a

20 location map.

21 Q. And have you filed the newspaper certificates of

22 publication with Mr. Wilson today?

23 A. Yes, we have.

24 Q. And have you also filed your proofs of mailing?

1 A. Yes, we did.

2 Q. Again, with Mr. Wilson?

3 A. Yes.

4 Q. Okay. Do you want to add by amendment or dismiss any
5 respondents from either of these units today?

6 A. No, we do not.

7 Q. So the lineup is still appropriate?

8 A. Correct.

9 Q. Let's start with the first docket item, which I believe is the
10 BA-115 unit. Let's talk specifically about that, okay?

11 A. Okay.

12 Q. First of all, let's turn to Exhibit A, Page 2 and tell the Board
13 what interests you've been able to acquire and what interests you need to...you
14 need to pool.

15 A. Yes. BA-115, we've leased 99.9007% of the coal owners'
16 claim to coalbed methane. And 99.7957% of the oil and gas owners' claim to
17 coalbed methane. We're seeking to pool 0.0993% of the coal owners' claim to
18 coalbed methane
19 and 0.2043% of the oil and gas owners' claim to coalbed methane.

20 Q. Okay. With regard to BA-115, what is your cost estimate?

21 A. It's \$231,944.94, Permit Number is 25...I'm sorry, its depth
22 is 2515, permit number is 5231 and it was drilled November 21, 2002.

23 Q. And with regard to BA-115, there's an Exhibit E attached,
24 correct?

1 A. Correct.

2 Q. And the only reason for escrow here is conflicts pertaining
3 to Tracts 1 and 5?

4 A. That's correct.

5 Q. Let's turn to the application and related Exhibits for BA-
6 114. Let's go to Exhibit A, Page 2 and tell the Board what you've acquired and
7 what it is you're seeking to pool.

8 A. We've acquired 98.7697% of the coal owners' claim to
9 coalbed methane. And 97.4078% of the oil and gas owners' claim to coalbed
10 methane. We're seeking to pool 1.2303% of the coal owners' claim to the
11 coalbed methane and 2.5922% of the oil and gas owners' claim to coalbed
12 methane.

13 Q. What's your cost estimate with regard of this well?

14 A. \$248,799.98 to a depth of 2,561. Permit number is 5351.
15 And it was drilled September 5, 2002.

16 Q. We have some addresses unknown in Tracts 2 and 3,
17 correct?

18 A. Yes.

19 Q. And escrow we would required for those folks?

20 A. Right.

21 Q. And then we have...you filed an Exhibit E regarding
22 conflicts as well?

23 A. Correct on one...yes, 1...Tract 1-B.

24 Q. Okay. It looks like we have some split agreements?

1 A. Correct.

2 Q. And those split agreements, the folks subject to the split
3 agreements are identified in Exhibit EE?

4 A. Yes, it is.

5 Q. And that pertains to Tracts 4 and 6?

6 A. Yes.

7 Q. And are you asking that if the Board were to approve this
8 application and enter an order that that order provide that the operator could pay
9 the folks identified in Exhibit EE directly rather than escrowing their funds in
10 accordance with the terms of their written split agreement?

11 A. Yes, we did. Yes, we are.

12 Q. I have a couple of opinion questions. First of all, is it your
13 opinion that the plan of development, which in each of these units is to drill a one
14 frac well in the unit, is a reasonable plan to develop the coalbed methane within
15 and under each of these units?

16 A. Yes, it is.

17 Q. And is it your opinion that if you take together the leasing
18 program and acquisition program that the applicant has...has followed and the
19 interest that the applicant has been able to voluntarily obtain and combine that
20 with a pooling order affecting the respondents in these two applications, that
21 those two events, the leasing and acquisition program and the pooling order,
22 would serve to protect the correlative rights of all owners and claimants in both of
23 these units?

24 A. Yes, it would.

1 Q. That's all I have.

2 BENNY WAMPLER: Would you repeat in Exhibit E and EE the

3 tracts that are involved, please?

4 MARK SWARTZ: On 114?

5 BENNY WAMPLER: On 114, yes. The one we are talking about

6 now.

7 Q. Les, what's the---.

8 A. Okay---.

9 Q. ---the escrow conflicts Tract is 1-B, isn't?

10 A. 1-B. And for unknowns is 2 and 3.

11 Q. That's what it shows. And then with regard to EE, what

12 tracts are involved?

13 A. 4 and 6.

14 BENNY WAMPLER: I just felt that we needed that for the record.

15 The...other questions from members of the Board?

16 BILL HARRIS: Mr. Chairman?

17 BENNY WAMPLER: Mr. Harris.

18 BILL HARRIS: As usual, I have a question about money and

19 drilling and estimated costs. These are drilled in 2002 but this still shows

20 estimated, would we not know by now what the actual costs were?

21 LESLIE K. ARRINGTON: Okay. On BA-114...BA-114 was

22 originally pooled in 2003. So on that one we just used the estimated costs that

23 was used in the original pooling so everyone would be treated equally. Now in

24 BA-115---.

1 BILL HARRIS: Now, it says that the cost in bold are actual but I
2 can't tell if...which, if any, are actual.

3 LESLIE K. ARRINGTON: Yeah, it is kind of hard to see. And I'll
4 give you a for instance, if you'll look at treatment or the line item 132 for frac, it is
5 a bit darker, \$68,126.69.

6 BILL HARRIS: Yeah.

7 LESLIE K. ARRINGTON: And there are a few charges that hasn't
8 trickled in. So the majority of the costs that you see there on that well is actual
9 cost.

10 MARK SWARTZ: Well, we can actual tell them, I mean, our copy
11 may be a little better than theirs.

12 LESLIE K. ARRINGTON: Yeah.

13 MARK SWARTZ: 101 is an actual cost.

14 LESLIE K. ARRINGTON: Yes, it is.

15 BILL HARRIS: Site preparation?

16 LESLIE K. ARRINGTON: Yes.

17 MARK SWARTZ: 104, Les, is that actual?

18 BILL HARRIS: Okay. I think I can see which ones now, you know.

19 MARK SWARTZ: Okay. 114, are you following?

20 BILL HARRIS: Yeah. 116.

21 MARK SWARTZ: Okay. And I think, you know...Les would you say
22 that the bulk of the money is in the actuals?

23 LESLIE K. ARRINGTON: Yes, it is.

24 BILL HARRIS: Okay, thank you.

1 BENNY WAMPLER: Other questions?
2 (No audible response.)
3 BENNY WAMPLER: Do you have anything further?
4 MARK SWARTZ: No.
5 BENNY WAMPLER: Is there a motion?
6 JIM McINTYRE: Motion to approve.
7 BENNY WAMPLER: Is there a second?
8 PEGGY BARBAR: Second.
9 BENNY WAMPLER: Motion to approve and a second. Any further
10 discussion?
11 (No audible response.)
12 BENNY WAMPLER: All in favor, signify by saying yes.
13 (All members signify by saying yes.)
14 BENNY WAMPLER: Opposed, say no.
15 (No audible response.)
16 BENNY WAMPLER: You have approval. I'm tempted to skip 15
17 and go to 16 and 17, is that---.
18 MARK SWARTZ: That will work.
19 BENNY WAMPLER: Next item on the agenda is...number...would
20 be Board Item 16, a petition from CNX Gas Company, LLC for pooling of coalbed
21 methane unit EE-13, docket number VGOB-04-0921-1333. We'd ask that the
22 parties that wish to address the Board in this matter to come forward at this time.
23 MARK SWARTZ: Mark Swartz and Les Arrington.
24 BENNY WAMPLER: The record will show there are no others. You

1 may proceed.

2 MARK SWARTZ: I'd like to incorporate the testimony regarding the
3 applicant, the designated operator and the leased terms if I might?

4 BENNY WAMPLER: That will be incorporated.

5

6 LESLIE K. ARRINGTON

7 DIRECT EXAMINATION

8 QUESTIONS BY MARK SWARTZ:

9 Q. Les, you need to state your name again.

10 A. Leslie K. Arrington.

11 Q. And who do you work for?

12 A. CNX Gas Company, LLC.

13 Q. Now these two applications pertaining to EE-14 and EE-
14 13 are both Oakwood I units, correct?

15 A. Yes, they are.

16 Q. So that would be frac units?

17 A. Yes.

18 Q. And they each contain 80 acres?

19 A. Yes.

20 Q. And the plan here are---.

21 BENNY WAMPLER: Mark, let me stop you. I didn't call them both--

22 -.

23 MARK SWARTZ: Oh, I thought you---.

24 BENNY WAMPLER: You want to do that?

--

1 MARK SWARTZ: Yes, please.

2 BENNY WAMPLER: That's okay. We'll go ahead and call also
3 petition for CNX Gas Company, LLC for pooling of coalbed methane unit EE-14.
4 This is Board agenda Item 17, docket number VGOB-04-0921-1334. We'd ask
5 the parties that wish to address the Board in these matters to come forward at
6 this time.

7 MARK SWARTZ: Mark Swartz and Les Arrington on that one as
8 well.

9 BENNY WAMPLER: The record will show there are no others. You
10 may proceed.

11 MARK SWARTZ: With regards to these two units in terms of the
12 exhibits, I would just sort of alert you to the fact that there are some revised
13 exhibits with regard to EE-14, that our tract in the summary sheet and those that
14 numbers in particular with regard to the percentage that we obtained in the
15 percentage we're pooling those numbers have changed and those exhibits have
16 changed accordingly, so there will be some differences there and you have the
17 revised exhibits.

18

19 DIRECT EXAMINATION RESUMES

20 QUESTIONS BY MARK SWARTZ:

21 Q. Les, with regard to these two units now that we actually
22 have them called together, they're both Oakwood I 80 acre units, correct?

23 A. Yes, they are.

24 Q. And they both...the plan is in each instance for one frac

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1 well and the frac wells in each case are in the drilling?

2 A. Yes.

3 Q. Turn to EE-13 first, what is the...and in looking at Exhibit
4 A, Page 2, what is the interest that you've been able to acquire and what is it
5 you're seeking to pool today?

6 A. EE-13, we've acquired 88.375% of the coal owners' claim
7 to the coalbed methane and 88.375% of the oil and gas owners' claim to the
8 coalbed methane. We're seeking to pool 11.625% of both the coal, oil and gas
9 owners' claim to coalbed methane.

10 Q. And what did you do to inform the respondents that you
11 were seeking to pool their interests in these two applications?

12 A. We've mailed by certified mail return receipt on August 20,
13 2004 and published in the Bluefield Daily Telegraph on August 30, 2004.

14 Q. Okay. It looks like the second publication was the 31st,
15 right?

16 A. Oh yeah, for EE-14 Bluefield Daily Telegraph on August
17 31, 2004.

18 Q. Okay. And the mailing dates were the same with regard to
19 both the units?

20 A. Yes.

21 Q. Have you filed proofs of mailing with regard it with Mr.
22 Wilson today?

23 A. Yes, we have.

24 Q. When you published, what did you publish?

--

1 A. Notice of hearing and attached location map.

2 Q. And have you filed that...those items along with a

3 newspaper certificate with regard to publication with Mr. Wilson today---?

4 A. Yes, we have.

5 Q. ---as well?

6 A. Yes.

7 Q. Okay. With regard to EE-13, what is your cost estimate?

8 A. \$230,376.86 to an estimated depth of 2,613 feet. Permit

9 Number is 6374.

10 Q. Okay. I think you said 87...86 cents, it's actually 87?

11 A. 87.

12 Q. Okay. And it looks like there is, at least identified in your

13 Exhibit B-3, there's a possible Equitable Production Company lease, correct?

14 A. Yes.

15 Q. And that would be in Tract 2?

16 A. I believe that's correct.

17 Q. And if in the event an order is entered here granting the

18 pooling, that ERECs be afforded the election option?

19 A. Yes.

20 Q. If they, in fact, have an interest?

21 A. Yes, correct.

22 Q. And this does not appear there's any...this meaning EE-

23 13, does not appear that there's any

24 escrow requirement?

1 A. No.

2 Q. And there are no split agreements?

3 A. No.

4 Q. Turning to Exhibit EE-14 where we have some revised
5 exhibits, if you would go to revised Exhibit A, page 2, would you tell the Board
6 what the interests that you've obtained and what the interests you're seeking to
7 pool are?

8 A. We've obtained 95.1625% of the coal owners' claim to
9 coalbed methane and 90.325% of the oil and gas owners' claim to coalbed
10 methane. We're seeking to pool 4.8375% of the coal owners' claim to coalbed
11 methane and 9.675% of the oil and gas owners' claim to coalbed methane.

12 Q. Okay. And you filed a revised Exhibit B-3 listing your
13 respondents?

14 A. Yes, we have.

15 Q. Okay. And you've also filed an Exhibit B-2 and Exhibit B-2
16 indicates that you're seeking to dismiss some people, correct?

17 A. Yes, we are.

18 Q. And who are you seeking to dismiss, the people listed
19 here?

20 A. Yes, all the one's listed under that Harold E. Jackson and
21 others.

22 Q. And the reason for the dismissals or reasons are
23 expressed in Exhibit B-2?

24 A. Yes, they are.

1 Q. And it appears to me that they're either because the
2 person was erroneously assumed to be an owner and has turned out not to be an
3 owner, or the person was indeed an owner but you've been able to obtain a lease
4 since filing?

5 A. Correct.

6 Q. And are those the two reasons for the changes?

7 A. Yes, it is.

8 Q. And so you've identified the change...the folks who's
9 status has changed from a respondent to someone you are seeking to dismiss in
10 Exhibit B-2 and then you've revised B-3 accordingly?

11 A. Yes, we have.

12 Q. And you've revised the Tract Identification page
13 accordingly?

14 A. Yes, we have.

15 Q. With regard to EE-14, what's your cost estimate?

16 A. \$228,682.57 to a depth of 2,521 feet. Permit Number is
17 6375.

18 Q. And is there an escrow requirement here?

19 A. No.

20 Q. I'm wondering though, with regard to Tract 4, we've got
21 some unknown percentages at this juncture, if you'll look at Exhibit B-3---

22 BENNY WAMPLER: Revised or the original?

23 MARK SWARTZ: Has the revised fixed that?

24 ANITA DUTY: Yes.

--

1 Q. Let me look here. You have to answer out loud though.

2 A. Yes, it does. It has corrected, yeah, the percentages.

3 Q. All right. So now, because you fixed the individual
4 interests by Exhibit B-2, there is...there is not an escrow requirement, is that
5 correct?

6 A. That's correct.

7 Q. Okay. With regard to both of these units, EE-14 and EE-
8 13, is it your opinion that the plan to drill one frac well in the drilling window is an
9 appropriate plan to develop the appropriate and reasonable plan to develop the
10 coalbed methane in and under these units?

11 A. Yes, it is.

12 Q. And is it also your opinion that if you combine a pooling
13 order with the leasing and acquisition program of the applicant that those two
14 occurrences would serve to protect all of the owners and claimants to all...to the
15 coalbed methane in these two units?

16 A. Yes, it will.

17 Q. That's all I have, Mr. Chairman.

18 BENNY WAMPLER: Questions from members of the Board?

19 (No audible response.)

20 BENNY WAMPLER: Is there a motion?

21 JIM McINTYRE: Motion to approve.

22 DENNIS GARBIS: Second.

23 BENNY WAMPLER: Motion and second. Any further discussion?

24 (No audible response.)

--

1 BENNY WAMPLER: All in favor, signify by saying yes.

2 (All members signify by saying yes.)

3 BENNY WAMPLER: Opposed, say no.

4 (No audible response.)

5 BENNY WAMPLER: You have approval. The next item on the
6 agenda is a petition from CNX Gas Company, LLC for creation and pooling of
7 conventional gas unit 25444, docket number VGOB-04-0921-1330. We'd ask the
8 parties that wish to address the Board in this matter to come forward at this time.

9 MARK SWARTZ: Mark Swartz and Les Arrington.

10 BENNY WAMPLER: The record will show there are no others. You
11 may proceed.

12 LESLIE K. ARRINGTON

13 DIRECT EXAMINATION

14 QUESTIONS BY MARK SWARTZ:

15 Q. State your name, please.

16 A. Leslie K. Arrington.

17 MARK SWARTZ: I would like to incorporate the testimony with
18 regard to CNX, if I might.

19 BENNY WAMPLER: That will be incorporated.

20 Q. Who do you work for?

21 A. CNX Gas---

22 Q. Okay.

23 A. ---Company, LLC.

24 Q. And what do you do for them?

--

1 A. Manager of permitting and environmental.

2 Q. And if the Board were to look at Exhibit A they would see

3 that this is one of those round units, right?

4 A. Correct.

5 Q. And it's being proposed under the statewide spacing

6 under the statute---?

7 A. Yes it is.

8 Q. ---and the regs? And basically the size of the unit is

9 dictated by a 1250 foot radius, is that correct?

10 A. That's correct, it is.

11 Q. And the well would be located in the center?

12 A. Yes.

13 Q. And this is a conventional well, correct?

14 A. Yes, it is.

15 Q. So, we don't need to account or attend to distances with

16 regard to the CBM wells that are also located in this circle since their producing

17 from completely different formations?

18 A. That's correct.

19 Q. Okay. Have you notified the respondents?

20 A. Yes, we have.

21 Q. And what did you do to do that?

22 A. We mailed by certified mail return receipt requested on

23 August 20, 2004. We published it in Bluefield Daily Telegraph on August 25,

24 2004.

1 Q. Okay. And have you filed proofs of publication and proofs
2 of mailing with Mr. Wilson?

3 A. Yes, we have.

4 Q. And when you published, did you publish a copy of one of
5 the location maps and the notice?

6 A. Yes, we did.

7 Q. What interests have you been able to acquire in this
8 statewide unit and what are you seeking to pool?

9 A. We've acquired 79.8207% of the---.

10 Q. Gas?

11 A. ---gas. I think we've got this wrong here...and 20...we're
12 seeking to pool 20.1793% of the oil and gas interest.

13 Q. Okay. This...this circular unit... statewide unit contains
14 how many acres?

15 A. 112.69 acres.

16 Q. Do you have a cost estimate?

17 A. Yes, we do.

18 Q. What's that?

19 A. The cost is \$373,178 to an estimated depth of 7,000 feet.
20 Its permit Number is 6227. It was drilled on July 6, 2004.

21 Q. And it looks like there is not an escrow requirement, is that
22 right?

23 A. That's correct.

24 Q. That's all I have, Mr. Chairman.

1 BENNY WAMPLER: Questions from members of the Board?
2 (No audible response.)
3 BENNY WAMPLER: Is there a motion?
4 JIM McINTYRE: Motion to approve it.
5 BILL HARRIS: Second.
6 BENNY WAMPLER: Second. Any further discussion?
7 (No audible response.)
8
9 BENNY WAMPLER: All in favor, signify by saying yes.
10 (All members signify by saying yes.)
11 BENNY WAMPLER: Opposed, say no. You have approval. The
12 next item on the agenda is a petition from CNX Gas Company, LLC for creation
13 of horizontal drilling unit with location exception for unit CNX HC-1, docket
14 number VGOB-0921-1341. We'd ask the parties that wish to address the Board
15 in this matter to come forward at this time.
16 MARK SWARTZ: Mark Swartz and Les Arrington.
17 BENNY WAMPLER: And you've got some others here that are
18 wondering why you aren't calling them. Could you not explain it?
19 MARK SWARTZ: They're not that enthusiastic. So, you know, it all
20 depends. Les could be able to carry the day here.
21 BENNY WAMPLER: We'll see.
22 MASON BRENT: We'll see.
23 MARK SWARTZ: Mr. Chairman, I'd like to incorporate the testimony
24 with regard to CNX.

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BENNY WAMPLER: That will be incorporated.

1 LESLIE K. ARRINGTON

2 DIRECT EXAMINATION

3 QUESTIONS BY MARK SWARTZ:

4 Q. Les, you need to state your name and who you work for
5 again.

6 A. Leslie K. Arrington and I work for CNX Gas Company,
7 LLC.

8 MARK SWARTZ: Just sort of focus on terms of, you know, what
9 we're...what we're looking to accomplish today. We need to create a drilling and
10 we need a location exception. We are not seeking to pool today because we are
11 not sure what the drilling unit is going to look like and we've essentially given you
12 two options that have occurred to us as reasonable ways to create these drilling
13 units. But if you start with the sort of fold out that we filed with the original
14 application to kind of focus you here and you will see that there are actually two
15 legs. There's one that runs sort of north, west, south, east and then there's a leg
16 that a leg that runs more sort of north, east, south, west. The idea is, regardless
17 which of these maps you look at, there are two circles that are not colored in.
18 And the circle further to the north closer to the existing well bore is essentially a
19 hole that will be drilled to enable the legs of the horizontal well to be drilled and
20 the production will occur on this...from the hole to the...further to the south. So, if
21 I could compare these, you know, the first one...the furthest one to the north, the
22 non-colored circle, is essentially a development hole.

23 BENNY WAMPLER: Let me just stop you. I don't mind if you're
24 doing this but you probably ought to just be sworn in.

--

1 MARK SWARTZ: Oh, okay. All right.

2 BENNY WAMPLER: If you're testifying.

3 (Mark Swartz is duly sworn.)

4 MARK SWARTZ: And then the second hole will actually be the
5 production hole from which the horizontal holes will produce. These lines, these
6 dash mark lines, are horizontal holes drilled in a coal seam that are intended to
7 produce from the P-3 and P-4 coal seams. There is not going to be any up-hole
8 production so we're not...we're not looking at creating units that would cover
9 production from formations above the P-3 and P-4...this is a horizontal production
10 unit. These legs are projected to be 4,000 feet but of course, you know, that's
11 subject to the vagaries of underground drilling and, you know, if everything works
12 well that will happen.

13

14 When Les and I originally talked about what to do here in terms of
15 creating these units we came, you know, hit upon the idea that we...that we do
16 these two rectangular units which somewhat overlap at the top. Subsequently,
17 Les hit upon the idea and I think...my sheet's yellow but you've got a handout
18 today that's probably white, and essentially what he did is he thought further
19 about it, you'll see that there's a line on your sheet called existing Oakwood 80
20 acre grid, which is probably about here. When he extended the grid it worked out
21 pretty well in terms of just extending those 80 acre units and we would have a
22 total of 6 units potentially, six 80 acre units. There are advantages to both of
23 these plans. Les, when we get to him I think will tell you he actually prefers the
24 one with the 80 acre extension. We're not asking you to extend the Oakwood

--

1 Field. We're saying or suggesting that you create six 80 acre production units.
2 And...which, you know, I'll talk to Les about how...how he would allocate that.
3 So, basically what we're here today is we need a location exception for these two
4 wells because the way the statute the definition of well in Virginia is worded, if
5 you read past the first line, you know, when you're thinking "yeah, this is not a
6 well, I don't need an exception" and then you get to the second line, "Any hole
7 that you dig to assist you in producing from a well is also a well." So this clearly
8 contemplated by the code that these are both wells even though we aren't going
9 to produce from the first one. So we need to...we would really like to get a
10 location exception today so we can proceed the permit and get started on these.
11 So, that's the first thing we need. Then we need...because there's no need in
12 pooling if we don't know what the unit's going to look like because we don't know
13 who to notice. Obviously, you know, the notification would be slightly different if
14 we've got the two rectangles as opposed to the six 80 acre units. So we
15 need...you know, we need to know what the...what the unit is going to look like.
16 With that in mind, I'd like to take some testimony from Les and
17 obviously I'm sure you have some questions for him as well.

18 DIRECT EXAMINATION RESUMES

19 QUESTIONS BY MARK SWARTZ:

20 Q. Les, with regard to these two wells, what I'd like to start
21 your testimony was...have you passed out to the Board a schematic that kind of
22 indicates to them what...what you've got in mind here in terms of drilling?

23 A. Yes, I have. And those...what's on there is the actual
24 surveyed locations of the wells. So, that's on the two Exhibits that I gave you.

^^

1 Q. Okay. So, and in this exhibit you've got actual surveyed
2 locations?
3 A. Yes.
4 Q. And with regard to the Figure 1...I think you passed this
5 out, correct?
6 A. I did.
7 Q. Could you tell the Board what it is you have in mind with
8 regard with these two holes---?
9 A. Yes.
10 Q. ---what they're going to do?
11 A. Yes. I...well TA-60 will be the access hole for all their
12 drilling activities of the laterals, the 4,000 foot laterals that you see. And the
13 production hole would be TA-59. That's where we would remove the water and
14 produce all the gas from. No production activity or water removal would take
15 place from well TA-60.
16 Q. And the horizontal hole...I mean, this shows you coming
17 down TA-60 making a curve---?
18 A. Uh-huh.
19 Q. ---in a 200 foot interval there and then intersecting what
20 seam?
21 A. Pocahontas Number 4 seam.
22 Q. At approximately what depth?
23 A. 1950 feet.
24 Q. Okay. And then the intention would be to...to drill through

1 in a horizontally fashion through these bridge plugs in the TA-59, correct?

2 A. Yes.

3 Q. And then continue with the two 4,000 foot holes that are

4 depicted on the other exhibits?

5 A. That's correct.

6 Q. Okay. Are you...is your intention to keep the TA-60 well in

7 place for some period of time?

8 A. Yes, it is.

9 Q. And why would that be?

10 A. Maintenance of the lateral holes.

11 Q. So, if you've got to get in there and do some re-drilling or

12 something or any kind of maintenance you've got an opportunity to make that

13 turn again?

14 A. That's correct.

15 Q. Because you can't go down TA-59 and make a right turn?

16 A. Right.

17 Q. Or a left turn?

18 A. Whatever.

19 Q. Whatever, okay. Talk to the Board some about your

20 thinking and your preferences concerning what the unit might look like.

21 A. Yes. As it origin...as it was originally filed on the Exhibit

22 A's, I was showing a production unit more or less 500 foot all for the laterals.

23 Since we are out in the statewide spacing there was no field rules. After sitting

24 and thinking about that, I was thinking what happens if you don't drill the full

1 length then that production unit wouldn't be sufficient. If we go to the exhibit that
2 I passed out to you, that allows you to if that 4,000 foot ends up being 3,500 feet
3 your production unit still works because you're only...you're doing an allocation
4 there. And that really protects all the owners. If you use the 80 acre type grid
5 that allows you to go out there in any area and drill another lateral and still
6 allocate across any unit that you...that you want to allocate it across, it really
7 gives you more opportunity to drill additional wells versus this way because
8 you're production unit is kind of formed in that location and in this fashion you
9 can drill them in any fashion using the 80 acre units and be able to allocate your
10 production.

11 Q . If, for example, if you're...if you're...if we're looking at the
12 horizontal hole that goes off to the southeast---

13 A. Uh-huh.

14 Q. ---okay, and we assume that you can only drill 2,000 feet
15 instead of the 4,000 feet?

16 A. Right.

17 Q. ---you wind up stopping short of this unit, correct?

18 A. Correct.

19 Q. So there's no need to allocate to these people because
20 the hole is not on their unit?

21 A. That's correct.

22 Q. If another horizontal well were to come in from the north
23 and come into this unit, you've already got a unit formed that you can allocate
24 that production to, correct?

--

1 A. Correct.

2 Q. Would you contemplate allocating production just like we

3 have with regard to the longwall panels?

4 A. Yes, we would.

5 Q. So it would be the feet or the area in each unit compared

6 to the total length or total area and that's how you would allocate ?

7 A. Total footage, yes.

8 Q. So, basically, if it actually got drove 4,000 feet you would

9 take the number of feet in each of the units that have crossed. Put that over the

10 4,000 you would have a percentage and that would be your allocation?

11 A. That's correct.

12 Q. With regard to production of hole, what are your plans in

13 that regard...with regard to these wells?

14 A. None.

15 Q. Okay. That's all I have at this time.

16 BENNY WAMPLER: Questions from members of the Board.

17 DENNIS GARBIS: Mr. Chairman?

18 BENNY WAMPLER: Mr. Garbis.

19 DENNIS GARBIS: Have you considered potentially going from your

20 TA-60 and going almost due east to the square to the...well, east of the TA-60

21 and TA-59 and then potentially even going one further over there. So, in other

22 words, you'd have maybe three off shoots there instead of two as you have now,

23 because if you go by your linear footage allocation then the guy in square CNX

24 TA-15...well, I don't know how you designate that grid there, he may potentially

1 not get as much out...in looking at the protection of the correlative rights, say he
2 might come up on the short end of the stick versus if you drilled another leg again
3 going due east. Shouldn't you get more out of that square and then maybe even
4 potentially including it into the one next to it?

5 LESLIE K. ARRINGTON: Well---

6 DENNIS GARBIS: Assuming the geology justifies it. I mean that
7 part I don't know.

8 LESLIE ARRINGTON: That is...geology is a problem. And that is
9 the reason we have forecast these two wells in these directions. They are being
10 drilled up-dip and within coal seams thickness that we feel we can drill.

11 BENNY WAMPLER: All right. Go ahead and call your guy down
12 here and talk to us a little bit.

13 MARK SWARTZ: Well, we should probably get Scott down here
14 because he doesn't know anything about reservoir engineering. All right, Rick,
15 come on, man. I tried to keep you hiding, but---

16 BENNY WAMPLER: Have him sworn in.

17 (Rick Toothman is sworn.)

18

19 RICK TOOTHMAN

20 having been duly sworn, was examined and testified as follows:

21 DIRECT EXAMINATION

22 QUESTIONS BY MARK SWARTZ:

23 Q. State your name for us.

24 A. Rick Toothman.

--

1 Q. Who do you work for?

2 A. CNX Gas Company.

3 Q. What do you do for them?

4 A. I'm engineering manager.

5 Q. Engineering in the sense of what?

6 A. Drilling completion, stimulation design, reservoir,
7 preserves, that type of work.

8 Q. What's your education?

9 A. I've got a petroleum engineering degree from West
10 Virginia University.

11 Q. You heard Mr. Garbis' question. Do you want to answer
12 it?

13 A. Yes, sir. I thought Les did a fair job. We're trying to drill
14 these things in a fashion that we can get the water back to allow the methane to
15 flow back to this well bore. That's the way it's constructed. So we're trying to drill
16 the legs up-dip and we are also trying, as you said, stay within the thickness of
17 the coal.

18 The other problem that you have with multiple legs, it's our first
19 attempt down in these areas, is that it gets considerably much more complex the
20 more you drill and your risk at least...we may come back before the Board at
21 some future time and look at doing something like that. That's really why we
22 kind of like this particular fashion because it would address the idea if the pattern
23 got more sophisticated and you drilled more legs you could address those issues.

24 BENNY WAMPLER: Now, are these open holes?

1 RICK TOOTHMAN: Yes, sir, they are.

2 BENNY WAMPLER: Oh. Do you have any way of telling or from
3 other peoples experience of how much your drainage is going to be out of a cubic
4 foot of coal? Does it change here by having it open hole? And what I'm leading
5 to is, is the linear foot the real way to allocate?

6 RICK TOOTHMAN: Well, we...we've got...the knowledge that we
7 have goes back to the drilling from within the mine and...so, you know, we...we
8 are...I mean, we are taking those readings and we feel that there is a drainage
9 area. To go back, I mean, even within the square units that we have in a frac
10 pattern in...another way to look at it is a frac pattern is creating a linear drainage
11 area as well even though we've allocated nine square units. So in this case
12 we've actually drilled the linear, the other way we parted the rock and put sand in
13 it relates to the same thing but what we think is a fair assessment.

14 BENNY WAMPLER: Drilling techniques, you're pretty confident will
15 stay within the coal seam? You'll be able to track the coal seam?

16 MR. PATTERSON: Yes, sir. It would become increasingly difficult
17 if we were trying to drill a one foot seam but...and the seam thickness that we are
18 dealing with, yes, we feel like we can and we actually feel like we have to.

19 BENNY WAMPLER: What's the technical reason for having the
20 access and the production hole?

21 MR. PATTERSON: Well, the...what we're trying to address there is
22 that if the hole is dry, meaning there was only gas in it, we could do it with one
23 well. The...we would use what's termed the access hole. The problem is that
24 you have associated fluids or associated water with the coal and if you can't

--

1 recover that water then your hole is necessary...undue back pressure on the well
2 and you don't produce the methane. So what we're...what we're actually trying to
3 do is this...that this production well by coming into it at a right angle and drilling
4 up-dip is that if the water can come back...and if you look the production TA-59
5 actually extends below the horizon or the coal horizon by a couple hundred feet
6 much the same way that our vertical frac wells do today. We want the water to
7 come to the well bore and into what we turn the somber into that rat hole so that
8 we could rod pump it or use any pumping technology to get the water out. That
9 would remove the water, remove the back pressure and continue to produce the
10 methane between the tubing and the casing that's there.

11 BENNY WAMPLER: Where will you take the water out, which hole?

12 RICK TOOTHMAN: The water would come up the production TA-
13 59. There would be a tubing string in there, which is not shown in your drawing
14 there. What we anticipate is using a production rod system just like we do in a
15 frac...frac holes would be the exactly the same. So for clarification this access
16 hole would be used; that's where the drill rig would be set up; that's what we
17 would use to turn to landing the coal; and then stay in the coal and then we would
18 either intercept this well or come very close to it to establish communication
19 between the two well bores; drill the laterals; and if things work well we will have
20 two laterals 4,000 foot a piece. The drill cuttings through that whole process will
21 come back up through this access hole into a pit but if at time of drilling is
22 finished or completed the access hole essentially will not be used again unless at
23 a later date we feel like we have to go back in and clean out those laterals and
24 that would be the only time we would use it again. All of the production of all

1 fluids, water and methane, would come up TA-59.

2 BILL HARRIS: Mr. Chairman?

3 BENNY WAMPLER: Mr. Harris.

4 BILL HARRIS: I have an associated question. The bridge

5 plugs...I'm not sure if I understand what's happening there with your production.

6 RICK TOOTHMAN: The...what we're trying to do with the bridge

7 plug is---.

8 BILL HARRIS: Tell me what they are.

9 RICK TOOTHMAN: A bridge plug is a cork in a bottle---.

10 BILL HARRIS: Okay.

11 RICK TOOTHMAN: ---I mean, essentially. I mean, there's different

12 designs, balls and baffles. But the idea there is that when we...when we drill that

13 horizontal if we intercept that well bore, keep in mind that we're generating a

14 whole bunch of cuttings and trying to clean it to the surface.

15 BILL HARRIS: So coming up, yeah.

16 RICK TOOTHMAN: But we're going to have this open container

17 below us---.

18 BILL HARRIS: Uh-huh. The ten foot...that's indicated there?

19 RICK TOOTHMAN: Well, it's the ten foot but if we didn't have that

20 plug it could be 250 to 300 foot.

21 BILL HARRIS: Okay.

22 RICK TOOTHMAN: Okay. Because you see that the coal seam is

23 at 1,950 and the casing is at 2213?

24 BILL HARRIS: Uh-huh.

1 RICK TOOTHMAN: So you're looking at let's say plus or minus 250
2 feet. What we're trying to do is through the drilling process...we want that to be
3 open when we...when we go to produce this well and through the drilling process
4 if we don't put an artificial plug in there for just during the period of drilling---

5 BILL HARRIS: So, it's temporary then?

6 RICK TOOTHMAN: It's temporary.

7 BILL HARRIS: Go ahead, I'm sorry.

8 RICK TOOTHMAN: Then all those cuttings are going to fill up that
9 storage space down there and we'd have to remove it at a later date. So we're
10 just trying to eliminate that. Minimize...minimize that container so that all the
11 cuttings will go back and out to the surface over here at TA-60. When the
12 process is done we'll go back in and take those bridge plugs out or knock them
13 out like I said it depends on the design there and run our tubing and rods down to
14 that depth.

15 BENNY WAMPLER: Now are you going to charge...this is probably
16 Les, are you planning as far as your AFE would charge both holes?

17 LESLIE ARRINGTON: Yes, it will.

18 BENNY WAMPLER: I don't know who should answer this or if they
19 have to call somebody else but you're asking to select 80 acres and put them out
20 there where they conveniently hit...this is my terms...hit where you're planning to
21 drill. Do you have enough geologic knowledge to, say that the 80 acre field
22 should be extended to that area? Can you...are you prepared to talk about that
23 rather than just these select areas to say that extend the edge out, cover this
24 area?

--

1 MARK SWARTZ: We predicted that somebody would ask that kind
2 of question. I'll let Rick talk about this, but I need to put this in context for you.
3 We've been here a lot over the last few years because we have concluded, and
4 Rick can remind you of this because I think he's been a witness, that perhaps the
5 80 acre units are a little big in some areas given the gas content of the coal. So,
6 you know, from a regulatory stand point I think this Board has demonstrated a
7 desire to kind of stay the course on unit sizes---

8 BENNY WAMPLER: Yes.

9 MARK SWARTZ: ---and that makes sense to me as a lawyer from a
10 regulatory stand point. But I don't want you to feel that with me telling you, yeah
11 you could do that and I don't have, you know, regulatory heart burn over that, but
12 you're still going to hear from the technical witnesses that perhaps, you know,
13 we're going to have to do some in field drilling if that's the way we're going to size
14 these units, and I'll turn to him in a moment. I think...also I need to...this is
15 something that we did not talk about. Les, of these six units that you've
16 proposed, how many of them, and which ones would need to be force pooled as
17 opposed to voluntarily pooled?

18 LESLIE K. ARRINGTON: Two.

19 MARK SWARTZ: And which are the two that would need to be
20 force pooled, assuming you are unable to finish leasing every day?

21 LESLIE K. ARRINGTON: Eastern most and southern most.

22 MARK SWARTZ: So this...so these...this block of four here you've
23 got...you could create on a voluntary basis?

24 LESLIE K. ARRINGTON: Yes.

--

1 MARK SWARTZ: And this one to the east and this one to the south
2 would require pooling---?

3 LESLIE K. ARRINGTON: Yes.

4 MARK SWARTZ: At least that's if it was at this...today?

5 LESLIE K. ARRINGTON: Yes.

6 MARK SWARTZ: Rick, with regard to extending...I assume you
7 understood the question, from a technical stand point, what would be your input
8 with regard to this extending the Oakwood Field to the east in this area?

9 RICK TOOTHMAN: Well, the original intent of the Oakwood pool,
10 and my testimony today it is been in regards to vertical wells from the surface,
11 and knowing that there's...for the most part we've talked multiple seams and
12 we've also talked about fracture stimulation and the inability to go very far away
13 from those well bores with the fracs. So, in essence, we know what we're...we
14 know what we're draining. The issue under the horizontal is that... I'll say just as
15 I've dreamed up this particular pattern there may be...well either us at a later date
16 or other companies that get very elaborate with what they've planned to do
17 with...you know, there's obviously there's infinite patterns that you can now drill.
18 We've tried to take it back to the 80's only and, again, I think the size of the
19 square is immaterial it's just that that's what's been in existence out there to the
20 west of this particular area and that's why we selected it. There's nothing
21 magical about it. It was just a means to try to allocate fairly production from this
22 particular area. If the Board or anybody else said, hey, why not 40's or 60's or
23 something I wouldn't have heart burn over any of that, it's just we were trying to
24 remain consistent.

1 BILL HARRIS: Well, since we're on this topic if I might, let me ask
2 about---.

3 BENNY WAMPLER: Mr. Harris.

4 BILL HARRIS: --- is there an optimum acreage size. I mean, and I
5 think we've talked about this before.

6 RICK TOOTHMAN: Going...going back to a vertical I believe that
7 there is an optimum and we've got data supporting the 80 is too large. We're in
8 the...we're in the realm of a 40 to 60. The reason I'm going to give you a range is
9 that when we're starting to talk about an optimum, we're talking about from an
10 economical recovery stand point and a reserve recovery stand point. Based on
11 all the modeling and all the data that we've had in the past, it's somewhat
12 depending on your gas price and your gas price forecast. If you're going to tell
13 me for the next 25 years that \$6 is going to be the norm then, you know, I may
14 even revise that and say hey we can go even closer but trying to balance all
15 issues, we feel that 40 to 60 acres is the norm throughout most of the field; some
16 areas closer to 40. And we've done...we've done quite a bit out in this eastern
17 area that 40's look to be the right answer.

18 MARK SWARTZ: Also, I think, you know, to recall that we're talking
19 about horizontal holes as opposed to vertical holes---

20 RICK TOOTHMAN: That's correct.

21 MARK SWARTZ: ---the dip here, if you were to draw a line on this
22 map between these two horizontal wells where would the dip line be roughly?

23 RICK TOOTHMAN: Well everything...actually we're almost
24 perpendicular to the dip. I mean, we're dipping back in this direction.

--

1 BENNY WAMPLER: Back to the access?

2 RICK TOOTHMAN: Yeah, that's correct.

3 MARK SWARTZ: Okay.

4 RICK TOOTHMAN: So, right on this particular location you're on an
5 anti-climb that's dipping back in that direction.

6 MARK SWARTZ: And what happens when you start to get rather
7 than...I don't know what the geometric term is but when you get to the point
8 where you're not...you're not following the dip but you're either crossing the dip or
9 the other direction, I mean, what's the effect on the well? What's the effect on
10 the production?

11 RICK TOOTHMAN: Well, we...what I think will be the effect it will
12 be a negative effect because what you're asking for water to run uphill. We feel
13 that the water running down dip into the sump takes very little pressure and as
14 you're aware as coal's produced...or excuse me, as the methane's produced from
15 the coal, it's a very low pressure environment to begin with. If you drill it opposite
16 of that, now you're asking the water to come into the well bore and go up and it
17 depends on the dip, you know, over the course of the coal seam, you're going to
18 be undulating somewhat anyway. It's real nice on a picture to show that that
19 thing is perfectly up-dip over 4,000 feet. But, in fact, you...you may have some
20 flat spots and some rolls anyway, and we'll do our best to stay in that. But it's our
21 belief, you know, up front is that we just want to stack the cards in our favor and
22 by doing that we feel like we have a better ability to produce the water and the
23 associated gas.

24 DENNIS GARBIS: If you have a typical vertical well, and just based

1 on experience, you could expect to reach about 350 to 450 million cubic feet per
2 vertical well. That's some of the...well we've had previous samples. How many
3 hundreds of millions of cubic feet can you expect out of your proposal here?

4 RICK TOOTHMAN: The answer to both your questions...I'm going
5 to preface that first. The 350 to 400 million that we've been talking about is
6 somewhat to the west where we've had thicker coals and we believe slightly
7 higher gas contents. Part of the problem or part of the reason that we're before
8 the Board right now is that we do have some vertical wells in this area that are
9 not going to recover that kind of gas. Geologically there's not as much coal,
10 there's not as much gas and we have not been able to achieve those kinds of
11 rates. So, therefore, instead of going away from a multiple seam approach we've
12 decided to focus in on some of the thicker seams and see if we can find another
13 method to recover the gas from those seams. Now to answer your question on
14 how much do I expect from this well, again, going back to...to your question, Mr.
15 Wampler, is that I feel like the reserve and the initial rate is a function of how
16 much horizontal that you drill. So, if I drill just 1,000 foot horizontal versus what
17 we're showing here is an 8,000 foot horizontal the reserve in the initial rate will
18 really be...will be less dependent. What we anticipate from this particular well, at
19 this point, I'm going to say I anticipate about 3/4 of a BCF 750 million.

20 DENNIS GARBIS: Which really isn't that high?

21 RICK TOOTHMAN: No.

22 DENNIS GARBIS: So is this cost effective?

23 RICK TOOTHMAN: We wouldn't be here if we didn't think so but--.

24 DENNIS GARBIS: Yeah, all right. Did you understand my

--

1 question? I mean, previously if you're looking at 350...all right, so even if you
2 were to say each one of these was 200 and you had six of them, so that would be
3 1.2 billion and you're telling me...or that would be 1.2 trillion, excuse me, your
4 750 billion, and as far as the cost but what was your AFE for doing this?

5 RICK TOOTHMAN: We don't have an AFE yet. We're still working
6 on the total dollar cost and getting those back. So...

7 BENNY WAMPLER: Well, the two well bores just based on the
8 experience we've had you'd be talking \$600,000 to \$700,000 range just to put
9 those down, they may be more or less, I don't know.

10 DENNIS GARBIS: Yeah. I still don't really have all the
11 information. So it's kind of hard to...I appreciate you're innovative---

12 RICK TOOTHMAN: Yeah, there's is...I mean, you know, you're
13 talking...we have experience in some other areas doing this but you're talking
14 about a different coal seam, you're talking about turning the bit and a lot harder
15 rock that exists here. So, I mean, it's...for the first few wells will be a learning
16 curve. I would anticipate the costs to be higher in the beginning and to make an
17 economic go of it, you know, we're going to have to control those costs. The gas
18 itself is also going to depend, you know, it goes back again on how thick is the
19 seam that's feeding and how high is the gas content but the numbers that we're
20 running we believe we can do it but---

21 DENNIS GARBIS: Now correct me if I'm wrong, didn't we
22 have...some previous testimony on another direction of the well. I'm not sure who
23 did that but if you were to graph out the production overtime I think it was higher
24 in the early...early on it was much higher and then say your graph would kind of

--

1 go up real high and then it just kind of came down pretty steep as opposed to
2 where I guess a conventional well it would be a little flatter and then go out---

3 RICK TOOTHMAN: That's correct.

4 DENNIS GARBIS: ---hopefully for a long time.

5 RICK TOOTHMAN: That's correct. But that goes back to this
6 specific pattern and I wasn't here when that...when that particular application was
7 made. But the more laterals that you drill the more communication that you
8 essentially you get between the legs and that's what they were attempting to do.
9 If you push that communication back to time zero then you get more gas
10 recovery...recovery at time zero. There is an...there will be an ultimatum there
11 but it will be somewhat depending on where you're at and the coal seams and the
12 gas contents and so forth.

13 MARK SWARTZ: It's essentially the same concept that we applied
14 on the in field drilling. You're creating that interference and they were creating...it
15 was a Christmas tree pattern...I think it was ERECs if I'm not...I don't know who it
16 was but there was---

17 DENNIS GARBIS: It was.

18 MARK SWARTZ: ---a lot of drilling and I think I saw a map of it.
19 But the intent there was to do the same thing as the in field drilling to create as
20 much interference between the wells between the bores as possible to bump your
21 initial production. I mean, that's the concept.

22 RICK TOOTHMAN: That's correct.

23 BENNY WAMPLER: What size are these holes?

24 RICK TOOTHMAN: What we're planning on is a 4 and 3/4 inch

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1 hole.

2 BENNY WAMPLER: Well, I notice your circles you draw out here
3 from your other wells are about 750 feet or something, just guessing, somewhere
4 like that. What kind of interference...and is that your experience or is that just
5 something that you drew out to kind of illustrate?

6 MARK SWARTZ: That's a notice issue.

7 BENNY WAMPLER: Notice issue, okay. Did you...what kind of
8 interference would your existing well do you anticipate?

9 RICK TOOTHMAN: Well, I'm going to answer that in a definite, I
10 don't know. The...I'm going to speculate in this area that our frac are not as...as
11 long as they...as they are in some of the other areas simply based on the
12 production performance that we have of this area. It has nothing to
13 do with the job size that we're doing because those are very
14 similar to what we're doing in all the other areas. But
15 geologic conditions sometimes dictate that. Of course, we
16 know...we know that from underground observation that we can
17 implement the same or execute the same job in two or three
18 wells and, you know, the lengths of those jobs change quite
19 bit.

20 What we may actually see, we may see some
21 communication during the drilling process and what we may
22 actually even see is the communication or some bump in
23 production from some of those existing wells benefitting
24

--

1 from these horizontal wells. I can only speculate. I can't
2 tell you that's what we'll see. But as Mark said---

3 BENNY WAMPLER: You haven't experienced that then
4 any other places that you---.

5 RICK TOOTHMAN: No, we don't.

6 BENNY WAMPLER: Okay. These other wells that are
7 existing now in this area, are they drilled under statewide
8 spacing?

9 RICK TOOTHMAN: Yes.

10 BENNY WAMPLER: All of them?

11 RICK TOOTHMAN: Yes, they are.

12 BENNY WAMPLER: Would there be any reason that we
13 couldn't consider a provisional field rule for the three and
14 four seam only, in other words, for horizontal drilling and
15 go with the 80 acre provided that we have a defined area? I
16 mean, obviously, we'd have to define the area. But we could
17 extend...I'm not trying to point us in this direction. I'm
18 just trying to have a discussion here to get what you want
19 to do here if we can do it feasibly. That would be to
20 have a defined limit that we'd go to here; extend 80 acre
21 units out, since we already have them butting up to this and
22 that's the only reason I'm saying stay with them, go for the
23 three and four seam for horizontal drilling only,

24

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1 provisional units. Does that make sense?

2 MARK SWARTZ: The only problem with provisional
3 units, isn't there a stay on---?

4 BENNY WAMPLER: Drilling it?

5 MARK SWARTZ: There's come back or there's a stay.

6 BOB WILSON: Well, I think maybe what you're
7 thinking about is if you apply for a modification of field
8 rules, there's no...they're no permit supposedly issued in
9 that area until it's...is that what you're talking about?

10 BENNY WAMPLER: No, he's right about provisional
11 too.

12 MARK SWARTZ: I'd need to have...do you have your
13 book with you?

14 BENNY WAMPLER: I don't have a copy of the law
15 with me.

16 MARK SWARTZ: But I don't want to, you know, agree
17 to something that causes us to be unable to get a permit,
18 you know.

19 BOB WILSON: I don't---.

20 DENNIS GARBIS: We would never do that.

21 MARK SWARTZ: I might, you know.

22 BOB WILSON: He's not afraid of you. He's afraid
23 of me.

24

1 BENNY WAMPLER: It's not my intent. But I'm
2 trying...what I'm trying to...does it make sense what I'm
3 suggesting to the Board to provide...I mean, I use the term
4 provisional. I mean, you know, if---.

5 MARK SWARTZ: Right.

6 BENNY WAMPLER: I think probably...you know, we
7 don't---.

8 DENNIS GARBIS: So the idea is to have the ability
9 to go both horizontal and vertical in the same grid?

10 BENNY WAMPLER: Well, in vertical they're
11 drilling...yeah. And this would only apply to the
12 horizontal. Vertical is already out there in statewide
13 spacing. They haven't come to us with adequate
14 documentation for field rules for that purpose. But we do
15 have a good history of the 80 acres in the...in the adjacent
16 area. I'd ask the engineer, based on your knowledge of the
17 geology in this area, its similar geology. You've talked
18 about the coal not being as thick and maybe not of the
19 methane content. But geologically is the makeup similar---?

20 RICK TOOTHMAN: Yes.

21 BENNY WAMPLER: ---from your knowledge of these
22 other wells you've drilled?

23 RICK TOOTHMAN: Yeah, the...geologically it's
24

1 similar to other areas. We just know that as we move to
2 east, and part of that is not that the coal don't exist,
3 it's just that they get very, very shallow.

4 BENNY WAMPLER: I understand. So---.

5 RICK TOOTHMAN: You've got an uplift and outcrop
6 as you continue further to the east.

7 BENNY WAMPLER: In this case you're talking about
8 going six and seven feet to three and four and five, right?

9 RICK TOOTHMAN: That's correct. Yeah, and they do
10 thin out. And that's---.

11 BENNY WAMPLER: Yeah. Right.

12 RICK TOOTHMAN: ---what we're looking at.

13 BOB WILSON: I think what we're talking about here
14 is---.

15 MARK SWARTZ: You can get around it.

16 BOB WILSON: Yeah. The Board can actually approve
17 an exception to this unless otherwise provided for by the
18 Board after an application for a hearing to establish a
19 modified drilling units or pooled boundaries has been filed,
20 no additional well shall permitted in the pool until the
21 Board's order establishing or modifying the pool or units
22 have been entered it says unless otherwise provided for by
23 the Board. We have actually...the Board has actually
24

1 accepted that in the past.

2 MARK SWARTZ: So we need...you know, we need to
3 say that if we're going---.

4 BENNY WAMPLER: Sure.

5 MARK SWARTZ: Because a provisional unit---.

6 BENNY WAMPLER: Right.

7 MARK SWARTZ: ---can create that problem.

8 BENNY WAMPLER: Well, what I was trying to do is
9 not box us in---.

10 MARK SWARTZ: Right.

11 BENNY WAMPLER: ---for the 80 acre in that area if
12 there's a more feasible way to deal equitably with the
13 parties that would be involved.

14 BOB WILSON: If we were to extend Oakwood for
15 horizontal...I'm not sure that technically that would be a
16 feasibility. What we've done in the past is we have
17 combined existing units under existing field rules for---.

18 BENNY WAMPLER: Right.

19 BOB WILSON: ---horizontal drilling. But I'm not
20 sure we would even want to extend the field rules, which are
21 designed for vertical wells persay. In other words, put
22 Oakwood...put horizontal drilling under Oakwood units. What
23 we've done in the past is issue a separate order creating an
24

1 order allowing for combination of existing units just to
2 preserve that configuration and to prevent confusion, as
3 much as anything else, which I would think that what you
4 were getting at earlier whereby we, yeah, could extend that
5 grid for the sake of clarity and for the sake of production
6 here, that would allow if there are more horizontal wells to
7 be done, then this 80 acre scheme could be used to expand in
8 orderly fashion as to opposed to the original, which was---.

9 BENNY WAMPLER: Yeah, because I don't know if we
10 extend the 80 acre out, for example, from where it exists
11 now that it hits on this grid. Now, that may have been what
12 you did. Is that what you did?

13 LESLIE K. ARRINGTON: That was---.

14 MARK SWARTZ: We tried to do that.

15 LESLIE K. ARRINGTON: Yeah, I did that. Yes, sir.

16 BENNY WAMPLER: Okay. I hadn't specifically asked
17 that question, but---.

18 MARK SWARTZ: I mean, I think, you know,
19 what...what the Chairman is proposing is that either you
20 extend the grid simply from a mapping unit creation or
21 definition standpoint on a provisional basis to allow this
22 to happen or you extend a grid for all---.

23 BENNY WAMPLER: For all purposes.

24

--

1 MARK SWARTZ: ---well, for the horizontal---.

2 BENNY WAMPLER: Right.

3 MARK SWARTZ: ---purposes to east---.

4 BENNY WAMPLER: Uh-huh. Right.

5 MARK SWARTZ: ---and then you've got these units

6 created so people don't need to come back in. I mean,

7 either one works for us.

8 BENNY WAMPLER: Yeah.

9 MARK SWARTZ: I mean, the advantage to the latter

10 is nobody...you know, we don't need to make a second trip

11 because with a provisional you definitely need to come back.

12 BENNY WAMPLER: Well, I'm just thinking about

13 notice...I'm kind of just thinking through the things that

14 we have to do from field rules and have we done al our

15 notices and all that stuff.

16 MARK SWARTZ: Well, we have to...no, you have to

17 publish the notice.

18 BENNY WAMPLER: Right, you'd have...and that's,

19 you know---.

20 BOB WILSON: Again, under the provisional units

21 that have been authorized before, they were provisional to

22 the extent that the applicant was to come back or have the

23 ability to come back later on and make it permanent if his

24

--

1 operation succeeded and they wanted to continue with it or
2 expand into other areas and this sort of thing. It wasn't
3 provisional, meaning that you had to come back when you
4 drill the well or anything like that.

5 MARK SWARTZ: Well, except the Board, I think...in
6 every instance that the Board allowed a provisional
7 situation to occur there was a mandatory comeback.

8 BENNY WAMPLER: Yeah, it was required.

9 MARK SWARTZ: It wasn't optional because you...I
10 think the Board's policy was that they wanted closure. I
11 understand what you're saying...they could have done that,
12 but I don't think they ever have.

13 BENNY WAMPLER: Yeah, we've always asked you to
14 come back.

15 BOB WILSON: But there's been no...there's been no
16 time table on that.

17 BENNY WAMPLER: Right.

18 BOB WILSON: The horizontal the Board approved for
19 provisional units. They're still outstanding.

20 BENNY WAMPLER: I don't know what the Board's
21 thinking is. I was just trying to...I mean, to me,
22 obviously, I think the 80...staying with the 80 acres is
23 better than creating a unit...a elongated unit personally.

24

--

1 I think it's something where the public's familiar with. If
2 nothing else, the public is familiar with it. I've heard
3 you said geologically it still makes sense. You know, you
4 also mentioned that it may be more sense to make them
5 smaller units. But nevertheless---.

6 RICK TOOTHMAN: Well, I'm just saying I'm not
7 fixated on the 80s.

8 BENNY WAMPLER: Right.

9 RICK TOOTHMAN: But, again, we...Les drafted the
10 80s because that's everybody is familiar with.

11 BENNY WAMPLER: Right.

12 RICK TOOTHMAN: And if we had came in before the
13 Board with 40s, the first thing I...I mean, if I was on the
14 other side of the table I'd say why did you change the unit
15 size. There's---.

16 BENNY WAMPLER: Well, yeah, we'd have to
17 have...yeah, we'd have to have a lot more information to
18 go...that's what I'm saying, then we have right now before
19 us. We'd have to have a lot more information to show that
20 we needed to go 40 or 60 or anything but 80.

21 MARK SWARTZ: Yeah, I think, you know, just
22 following up on what you were saying, Benny, that, you know,
23 if you...I think you could in theory create these six
24

1 drilling units either just create them or do it on a
2 provisional basis and then, you know, publish a notice, you
3 know, give people a month or---.

4 BENNY WAMPLER: That's what I think we should do.

5 MARK SWARTZ: ---sixty days to come back and then
6 you guys, you know, would feel like you were giving due
7 process warning to other people, you know, that could come
8 in and complain or not with regard to just saying this is a
9 fix for horizontal holes. It makes sense, lets do it, you
10 know.

11 BENNY WAMPLER: Yeah, I mean...I don't want to be
12 in a position here, I don't guess, in making a motion, but
13 what I would like for you folks to do if we went that route
14 is for you to define the field...how far out the field
15 should go for us to publish that. Put people on notice and
16 provisionally go ahead and approve this in the meantime.

17 MARK SWARTZ: I mean, just from a standpoint of
18 not chasing our tail, I mean, the thinning of the coal and
19 any fault lines, I mean, are we talking far up to the east
20 so that it's worth doing or are we...or are we going to run
21 into a problem a unit or two away and do we need to share
22 that with the Board?

23 RICK TOOTHMAN: Well, I think we've got east and
24

1 then we've got south. So, I mean, you're looking at---.

2 MARK SWARTZ: So even though it's going to pinch
3 out to the east, it's going to extend to the south?

4 RICK TOOTHMAN: Yeah, that's---.

5 MARK SWARTZ: Okay, we can give you...I think we
6 can give you an idea when we come back.

7 RICK TOOTHMAN: And that's your thoughts?

8 LESLIE K. ARRINGTON: That's my thought.

9 RICK TOOTHMAN: I mean, yeah, it's...you've got
10 mult...you can grow in multiple areas.

11 MARK SWARTZ: I understand.

12 RICK TOOTHMAN: North...north, south and so
13 forths. So, it will concave to the east. I can't tell you
14 today exactly where.

15 MARK SWARTZ: Right.

16 RICK TOOTHMAN: But there's much...much room to
17 grow with the grid itself.

18 LESLIE K. ARRINGTON: Knowing what we've got here
19 and kind of some of our future plans, I'd like to come from
20 the state line to the fault to the south.

21 RICK TOOTHMAN: Now, we're talking about extending
22 the grid system, but not the field rules.

23 LESLIE K. ARRINGTON: That's correct.

24

1 MARK SWARTZ: Right, right.

2 LESLIE K. ARRINGTON: For horizontal drilling.

3 RICK TOOTHMAN: Just for horizontal drilling.

4 MARK SWARTZ: Just for the convenience of having a
5 drilling units to deal with this.

6 LESLIE K. ARRINGTON: Yes.

7 BILL HARRIS: If I might ask, the map that
8 you...the plat you handed out, I noticed that there is
9 already grid light blue lines. Of course, then these...now,
10 that's...what you've done is take the existing Oakwood and
11 just extend those?

12 LESLIE K. ARRINGTON: I did, yes.

13 BILL HARRIS: Okay, so that's already...so there's
14 another 80 acre, I don't want to call it a unit, but it's to
15 the west of that there's...in other words, there's one in
16 between what---.

17 MARK SWARTZ: Right. Correct.

18 BILL HARRIS: ---we...where the Oakwood ends back
19 to---.

20 RICK TOOTHMAN: All the way back to the west.
21 That's right. That's where it ends. Right there is---.

22 BENNY WAMPLER: Yeah, that's what I was asking
23 earlier.

24

1 RICK TOOTHMAN: ---the ones that are numbered with
2 letters.
3 BILL HARRIS: Yeah.
4 RICK TOOTHMAN: That's what I was trying to make
5 sure there weren't just creating something out there---.
6 BILL HARRIS: Slap something---.
7 RICK TOOTHMAN: ---that conveniently fit.
8 BENNY WAMPLER: They just extended it out---.
9 MARK SWARTZ: You can tell where the line is
10 because the ones on the very left have drilling windows.
11 BILL HARRIS: Yes. Okay, and then yellow, I
12 think---.
13 MARK SWARTZ: That's the end of the Oakwood units.
14 BILL HARRIS: ---it says "Existing Oakwood 80 acre
15 grid."
16 MARK SWARTZ: Right.
17 BILL HARRIS: Basically, we're extending the grid
18 out to use as a reference for---.
19 MARK SWARTZ: Drilling units.
20 BENNY WAMPLER: For payment this type of drilling
21 activity.
22 BILL HARRIS: I do have another question about
23 fracing, but I think I'll wait until after this. I don't
24

--

1 know that it effects that or should I ask it or---.

2 BENNY WAMPLER: They're proposing frac.

3 BILL HARRIS: No, no, no. But I did have

4 one...and that's what I'm saying, it's not really related to

5 this.

6 BENNY WAMPLER: Well, go ahead (inaudible).

7 BILL HARRIS: Let me just---.

8 MARK SWARTZ: We're here.

9 BILL HARRIS: I'm curious about your comment about

10 fracing not...you know, and I guess in my mind when we drill

11 these wells and you do the fracing, then there are like

12 little fingers of what I'm describing as fingers of

13 coal...the material is prompted up by the sand or whatever.

14 But I guess we always assume it goes on a circular pattern.

15 You said something about linear.

16 RICK TOOTHMAN: The complex nature folds all bets

17 are off. But generally the fracture will...you've got three

18 stresses on a block, if you imagine a cube. You've got two

19 horizontal stresses and vertical stress.

20 BILL HARRIS: Yeah...yeah.

21 RICK TOOTHMAN: And what's going to end up

22 happening for the most part, the fracture that's corrected

23 is going to be perpendicular to the minimum because it's

24

1 going to...whatever the least push is on it's going to push
2 back against it.

3 BILL HARRIS: Yeah.

4 RICK TOOTHMAN: Now, in shallower seams, that
5 means that you may very well get a horizontal fracture in
6 the coal or at the coal interface. Deeper seams it could
7 very well be perpendicular or be a vertical claim that's
8 going out in some direction. So these things will be
9 vertical props and like I said, very much like drilling a
10 horizontal well in those directions.

11 BILL HARRIS: So all this time when we're drilling
12 thinking that ideally we're spreading out in all directions
13 with this, then we really aren't, is that what you saying or
14 the chances---

15 RICK TOOTHMAN: Well, I'm saying the chances are
16 that you're not. You're...then again on the coal, a lot of
17 times you'll have a combination of...I mean, we've seen them
18 underground observation where you actually have a vertical
19 and a horizontal component. So to some extent it will
20 finger out. They're very complex in the coal. Conventional
21 reservoirs are much simply to describe, but because what
22 happens with the coal is with the cleat systems, they're
23 like open fractures and networks that are there. So, I

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1 mean, you may initiate frac out in a particular direction
2 and intersect one of these open things and out finds
3 another---.

4 BILL HARRIS: And this takes---.

5 RICK TOOTHMAN: ---concordant that's wide open to
6 begin with. So---.

7 BILL HARRIS: Yeah, less resistance. So it---.

8 RICK TOOTHMAN: Right. So...so they do get very
9 complicated. To testify and say that absolutely every time
10 this is what's happening, I wouldn't be able to do that.

11 MARK SWARTZ: Well, in even in a conventional
12 reservoir you're never going to see a...well, I wouldn't
13 expect to see a circle.

14 BILL HARRIS: Yeah.

15 MARK SWARTZ: You would see kind of ellipse with
16 frac links and the...and the, you know, the long part of the
17 ellipses is generally going to be much longer than the width
18 of it. And that's, you know, more homogenizes and less
19 screwed up formation than a coal seam. But, you know...as
20 Rick said in a coal seam, I mean, it's even worse. You
21 know, you can't even feel like you going to get an ellipse.

22 RICK TOOTHMAN: Theoretically, the only way to get
23 a perfect circle is if the two horizontal stresses are

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1 exactly the same.

2 BILL HARRIS: Yeah.

3 RICK TOOTHMAN: If they're not, which generally
4 they're not, one is still greater than the other, than it's
5 going to be, you know, an elliptical.

6 BILL HARRIS: I really never thought about that.
7 Well, that brings me back to this then, when you do your
8 horizontal drilling you're using a four...what four and a
9 half inch---?

10 LESLIE K. ARRINGTON: Four and three-quarters.

11 BILL HARRIS: That's going to be through...you
12 know, if this room is like this block of coal and
13 drilling...so you going to have a four inch...four and
14 three-quarter inch line through.

15 RICK TOOTHMAN: That's correct.

16 BILL HARRIS: Now, then that's an open hole.
17 There's no casing or anything. So that's going to draw from
18 this hole block---.

19 DENNIS GARBIS: 360°.

20 BILL HARRIS: Well, it won't be...well---.

21 DENNIS GARBIS: Rounded, yeah, theocratically.

22 MARK SWARTZ: Well, yeah...yeah, potentially.

23 BILL HARRIS: Well, yeah.

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1 BENNY WAMPLER: Yeah.

2 DENNIS GARBIS: Ideally.

3 RICK TOOTHMAN: Yeah, I mean, you're going to draw

4 from the coal above, below and that's right, from side to

5 side and with time, you know...and it's a time pressure

6 constant. So, you know, initially you've going to be

7 draining gas very near to that well. Then with time---.

8 BILL HARRIS: Uh-huh. And the other migrants.

9 RICK TOOTHMAN: ---that pressure front is going to

10 continue to move out further and further. Your drainage

11 area very much is going to be a functioning time.

12 BILL HARRIS: Yeah, well, I noticed---.

13 DENNIS GARBIS: Excuse me, you would frac all of

14 that?

15 RICK TOOTHMAN: No.

16 BILL HARRIS: No, they're not. That's...that's

17 why I had the question.

18 RICK TOOTHMAN: We...we will...yeah, we will not

19 frac these.

20 BILL HARRIS: So, you're drilling...so now the

21 original one that had been draw out, this upside V sort

22 of...well, now I don't know if that's all null void or not,

23 but, you know, you were talking about drilling and then 500

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1 feet you had...you had indicated---.

2 LESLIE K. ARRINGTON: I just put on there as a 500
3 foot drainage area off of the---.

4 BILL HARRIS: Okay.

5 LESLIE K. ARRINGTON: ---off of the lateral.

6 BILL HARRIS: Okay, now is that realistic or is
7 that just saying well it might happen or it might not happen
8 or was that for the purpose of allocation or---?

9 RICK TOOTHMAN: Well, that's...again, that's the
10 problem, we can't tell you. We can't tell you exactly. But
11 realistically you're going to...you're going to migrate out
12 away from these well bores with time because you're creating
13 a pressure sink along that whole length of that well bore.
14 That's exactly what happens when you frac. You're not
15 creating the reservoir parameters itself. It's that you're
16 extending a well bore...a small well bore and you're making
17 it much larger to create a pressure sink. That's kind of
18 what we're saying is that is the way that pressure front is
19 going to migrate away from those fractures or that fracture
20 you create or away from these horizontals with time. So,
21 you know, in five years, I don't know what the distance is.
22 That's what we can't tell you. You'll be X distance away
23 and then ten years that pressure front is going to continue

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1 to move laterally away from that thing.

2 BILL HARRIS: So the 500 feet was somewhat of an
3 arbitrary number, but based on expectations and when you
4 drill like that and---.

5 RICK TOOTHMAN: That's...that's correct. And
6 that's why, going back to the vertical thing, and I'm
7 certainly not wanting to mix things, but for the benefit of
8 the Board, I want you to understand, that's why we've went
9 back and we've infield drilled in some areas that we have
10 already fraced on 80 acre spacing because there are some
11 areas effectively that have not been significantly drained.
12 We have not in ten year's time or whatever the time frame
13 is, we've not significantly impact the amount of gas that's
14 in those blocks and those areas.

15 BENNY WAMPLER: Okay. Any other questions?

16 (No audible response.)

17 BENNY WAMPLER: So, Mr. Swartz, if you could
18 restate what you want here we might be able to do something.

19 MARK SWARTZ: Okay, the first thing we would like
20 you to indicate to Mr. Wilson that he should look favorably
21 on any location exceptions. Secondly, I think our choice
22 would be to extend the 80 acre grid and conceptionally today
23 because...I mean there's a limit to what we can do today,

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1 but conceptionally today say we will except the design of
2 these six drilling units as you've extended the grid and
3 located them and then maybe in the future, you know, we'll
4 come back at your pleasure and look, you know, a grander
5 extension. That's what I need today.

6 BOB WILSON: Mr. Chairman.

7 BENNY WAMPLER: Mr. Wilson.

8 BOB WILSON: Is there a need to define from
9 correlative rights standpoint how close to the edge of these
10 units these horizontal holes penetrate?

11 BENNY WAMPLER: Where they stop you mean?

12 BOB WILSON: Yes.

13 BENNY WAMPLER: 500 feet I would think.

14 BOB WILSON: Well, the normal set back on the 80
15 acre units is 300 feet.

16 MARK SWARTZ: Yeah.

17 LESLIE K. ARRINGTON: Yeah.

18 BENNY WAMPLER: We can stay with that. Stay with
19 that.

20 BILL HARRIS: So what we're saying then is---.

21 BENNY WAMPLER: That just keeps it at 80 acres.
22 It's not changing anything that we have of the 80 acre
23 configuration.

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1 BILL HARRIS: Okay, okay.

2 MARK SWARTZ: Well, that's...you need to limit

3 that to the end of hole, otherwise we can't go through the

4 unit that has CNX 2A15 in it. It has got to be the end of

5 the hole.

6 BENNY WAMPLER: Yeah, it's the end of the hole.

7 MARK SWARTZ: Okay. I just---.

8 LESLIE K. ARRINGTON: End of the hole

9 determination.

10 BENNY WAMPLER: Yeah, I mean---.

11 MARK SWARTZ: I just wanted to make sure everybody

12 was clear on that.

13 BENNY WAMPLER: You heard the request. Is there a

14 motion?

15 JIM MCINTYRE: Motion to approve.

16 DENNIS GARBIS: Second.

17 BENNY WAMPLER: Second. Any further discussion?

18 (No audible response.)

19 BENNY WAMPLER: All in favor, signify by saying

20 yes.

21 (All members signify by saying yes.)

22 BENNY WAMPLER: Opposed, say no.

23 (No audible response.)

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1 BENNY WAMPLER: You have approval.

2 MARK SWARTZ: One other thing, we need the
3 exception. Do we need---?

4 BENNY WAMPLER: That's...you don't---.

5 MARK SWARTZ: ---no, we don't because we didn't go
6 that way. We don't need it. Never mind.

7 BENNY WAMPLER: You don't need it. Mr. Wilson can
8 handle that stuff. We have one other item of business, the
9 minutes from the last meeting. Have you had a chance to
10 look at those? I'll entertain a motion to approve.

11 MASON BRENT: I move that we approve the minutes
12 from our last meeting, Mr. Chairman.

13 DENNIS GARBIS: I'll second.

14 BENNY WAMPLER: Second. Any further discussion?
15 (No audible response.)

16 BENNY WAMPLER: All in favor, signify by saying
17 yes.

18 (All members signify by saying yes.)

19 BENNY WAMPLER: Opposed, say no.
20 (No audible response.)

21 BENNY WAMPLER: You have approval. Do you have
22 anything further, Mr. Wilson?

23 BOB WILSON: I don't have anything. Just next
24

1 month's schedule.

2 BENNY WAMPLER: We both have a conflict,
3 unfortunately. We have an interstate oil and gas compact
4 commission meeting with some pretty important items on there
5 that we thought that we might be able to bring back and pick
6 up some information.

7 COURT REPORTER: Do you need this on the record?

8 BENNY WAMPLER: Yes. It's...you had checked with
9 the facility, Bob...I'll probably just yield this to you and
10 let you talk.

11 BOB WILSON: Okay. I checked into the facilities
12 here, we can get either a room similar to this, only it's
13 flat and it doesn't have quite the capacity or the
14 auditorium or the Thursday following the regularly scheduled
15 hearing.

16 BENNY WAMPLER: So we go to Tuesday to Thursday
17 that week. The third...is that---?

18 BOB WILSON: Which would be October the 21st. I
19 checked informally with our major applicants this morning.
20 Everybody has already mailed their notifications for next
21 month's hearing. So presumably we would have to renotify
22 everybody if we change it at this point in time, which we
23 can do. That's one of the things that would have to be

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1 done. We cannot back up the date because we would---.

2 BENNY WAMPLER: Right.

3 BOB WILSON: There's no way we can make...meet
4 those requirements that way. But we can go forward with it
5 if we need to.

6 BENNY WAMPLER: Is that acceptable to everyone?

7 (Everyone indicates affirmatively.)

8 BENNY WAMPLER: Okay, then we'll...we'll meet on
9 Thursday the 21st of October then. Anything further from
10 anyone?

11 (No audible response.)

12 BENNY WAMPLER: Thank you so much.

13 STATE OF VIRGINIA,

14 COUNTY OF BUCHANAN, to-wit:

15 I, Jay Rife, Court Reporter and Notary Public for
16 the State of Virginia, do hereby certify that the foregoing
17 hearing was recorded by me on a tape recording machine and
18 later transcribed under my supervision.

19 Given under my hand and seal on this the 14th day
20 of October, 2004.

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22 NOTARY PUBLIC

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1 My commission expires: March 31, 2007.
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